

WHITE HOUSE DOCUMENT PRODUCTION

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS
SECOND SESSION

VOLUME VIII

WHITE HOUSE DOCUMENT PRODUCTION
IN RESPONSE TO S. RES. 229

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



DOC

Y 4.B 22/3:S.HRG.103-889

v. 8

U.S. GOVERNMENT PRINTING OFFICE

88-431

WASHINGTON : 1994

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-046872-8

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

DONALD W. RIEGLE, Jr., Michigan, *Chairman*

PAUL S. SARBANES, Maryland
CHRISTOPHER J. DODD, Connecticut

JIM SASSER, Tennessee

RICHARD C. SHELBY, Alabama

JOHN F. KERRY, Massachusetts

RICHARD H. BRYAN, Nevada

BARBARA BOXER, California

BEN NIGHTHORSE CAMPBELL, Colorado

CAROL MOSELEY-BRAUN, Illinois

PATTY MURRAY, Washington

ALFONSE M. D'AMATO, New York

PHIL GRAMM, Texas

CHRISTOPHER S. BOND, Missouri

CONNIE MACK, Florida

LAUCH FAIRCLOTH, North Carolina

ROBERT F. BENNETT, Utah

WILLIAM V. ROTH, Jr., Delaware

PETE V. DOMENICI, New Mexico

STEVEN B. HARRIS, *Staff Director and Chief Counsel*

HOWARD A. MENELL, *Republican Staff Director*

J. WILLIAM CODINHA, *Special Counsel*

MICHAEL CHERTOFF, *Republican Special Counsel*

NEAL E. KRAVITZ, *Deputy Special Counsel*

BETH O'NEILL MALONEY, *Counsel*

GLENN IVEY, *Counsel*

MITCHELL FEUER, *Counsel*

TIMOTHY P. MITCHELL, *Legislative Assistant*

DOUGLAS A. EPSTEIN, *Legislative Assistant*

LORI A. BEANE, *Legislative Assistant*

PATTY HAMEL, *Special Assistant*

KELLY CORDES, *Chief Clerk*

EMILY L. FRYDRYCH, *Assistant to Staff Director*

STEFANI LAKO, *Legislative Assistant*

TERESA HO, *Legislative Assistant*

AMY L. KOSTANECKI, *Legislative Assistant*

SHEILA DUFFY, *Legislative Assistant*

MARTIN J. GRUENBERG, *Counsel*

COURTNEY WARD, *Staff Director, Securities Subcommittee*

RAYMOND NATTER, *Republican General Counsel*

IRA PAULL, *Deputy Republican Staff Director*

JOSEPH BRAUNREUTHER, *Republican Deputy Special Counsel*

ROMAN DARMER, *Republican Counsel*

DOUGLAS NAPPI, *Republican Counsel*

LAURA S. UNGER, *Republican Counsel*

JAMES C. WILSON, *Republican Counsel*

PAUL GOLDENBERG, *Republican Special Investigator*

WAYNE A. ABERNATHY, *Republican Professional Staff*

JULIE FALLEN, *Republican Legislative Assistant*

SHELLIE R. BERLIN, *Republican Legislative Assistant*

GILA ZAWADZKI, *Republican Legislative Assistant*

COLLEEN BARNETT, *Republican Staff Assistant*

BECKY CHAPMAN, *Republican Executive Assistant*

EDWARD M. MALAN, *Editor*

IRENE C. WHISTON, *GPO Editorial Assistant*

DONNA LEE KRAUSE, *GPO Editorial Assistant*

CONTENTS

VOLUME VIII

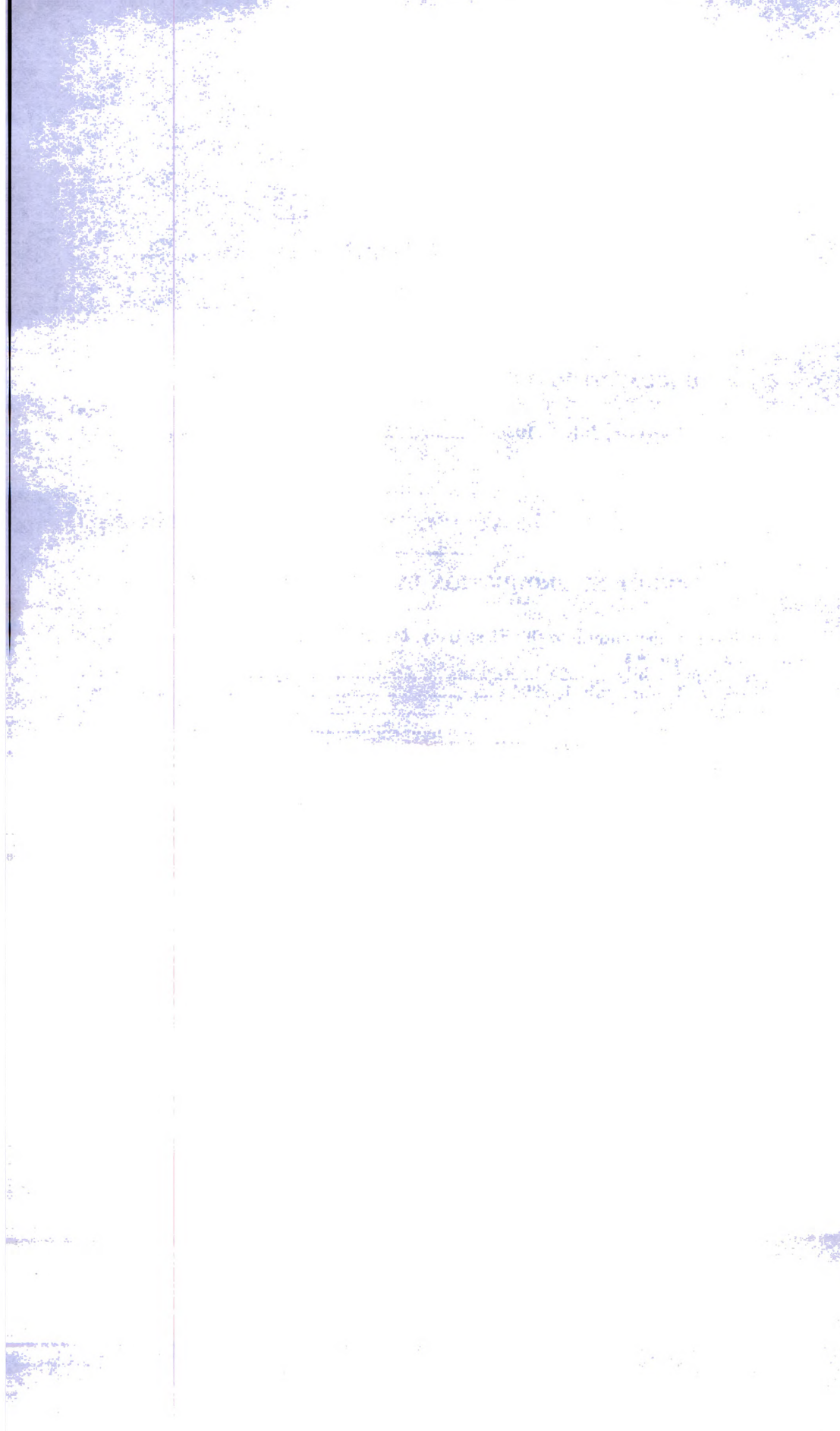
DOCUMENT PRODUCTION BY THE WHITE HOUSE

	Page
White House Response, July 1, 1994	1

VOLUME IX

DOCUMENT PRODUCTION BY THE WHITE HOUSE

	Page
Harold Ickes memorandum to the First Lady, March 1, 1994	1719
Individual Responses:	
Lisa Caputo, July 1, 1994	1746
Mark D. Gearan, July 1, 1994	1747
Harold M. Ickes, July 8, 1994	1749
Bruce R. Lindsey, July 1, 1994	1751
Thomas F. (Mack) McLarty, III:	
July 1, 1994	1752
July 19, 1994	1753
August 3, 1994	1754
September 26, 1994	1757
February 9, 1995	1760
Stephen R. Neuwirth, July 1, 1994	1762
Bernard W. Nussbaum, July 1, 1994	1763
John D. Podesta, July 8, 1994	1810
Clifford M. Sloan, July 1, 1994	1812
George R. Stephanopoulos, July 1, 1994	1821
Margaret A. Williams, July 1, 1994	1822



*Committee
confidential*

THE WHITE HOUSE
WASHINGTON

July 1, 1994

The Honorable Donald W. Riegle, Jr.
The Honorable Alfonse M. D'Amato
U.S. Senate Committee on Banking,
Housing, and Urban Affairs
534 Senate Dirksen Office Building
Washington, D.C. 20510-6075

Dear Chairman Riegle and Senator D'Amato:

By cover of this letter, the White House is producing documents responsive to the requests made in your letter of June 22, 1994. As indicated in a meeting with your staff on July 29, 1994, the documents we are producing in response to your enumerated requests are from the set of documents previously gathered by the White House in response to subpoenas issued by Independent Counsel Robert Fiske. We have withheld a small number of responsive documents until we conclude arrangements for their special handling.

In accordance with the understanding reached at the July 29 meeting, we have directed White House staff members to whom the Committee made individual requests that they need not separately produce documents they previously provided to the Office of White House Counsel in response to Mr. Fiske's subpoenas. Those documents are included in the White House production. The White House production does not include any personal documents that these individuals may have provided to Mr. Fiske.

We are also producing written policies requested by the Committee that have been issued by the White House Chief of Staff or the White House Counsel's Office concerning communications between White House officials and officials in departments and agencies and at law enforcement entities.

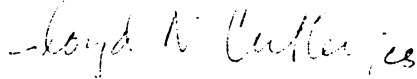
As you requested, we are providing a list that identifies each document produced and its source.

The White House is making this document production with the understanding that, until the time of the Senate Banking Committee hearing:

- (1) the documents will be treated as if they are classified material;
- (2) they will be maintained in a secure reading room that is guarded or locked at all times;
- (3) access to the documents will be limited to Committee Members, one or two designated members of the staff of each Committee Member, Mr. Codinha and his staff, and Mr. Chertoff and his staff;
- (4) all staff members will be required to sign an appropriate confidentiality agreement before being given access to the documents;
- (5) documents will be maintained in a safe within the reading room; Messrs. Codinha and Chertoff and one additional person from each of their staffs will be the only individuals with the combination to the safe;
- (6) documents will not be copied or removed from the room except for the limited purpose of temporary use at a deposition or interview;
- (7) deposition transcripts will be treated in the same manner as documents;
- (8) there will be two stand-alone computers in the reading room for use by staff; no print-outs may be taken out of the room.

We look forward to working cooperatively with your Committee on this matter.

Sincerely yours,



Lloyd N. Cutler
Special Counsel to the President

WHITE HOUSE PRODUCTION LOG
JULY 1, 1994
BATES X000001 - X001451

1. Bates # X000001

A. Document Description

Date: Undated

Handwritten notes

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

2. Bates # X000002-X000003

A. Document Description

Date: Undated

Handwritten notes

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

3. Bates # X000004-X000005

A. Document Description

Date: Undated

Handwritten notes

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

4. Bates # X000006**A. Document Description****Date: Undated****Handwritten notes****B. File Origin****Individual: Todd Stern****Office: Staff Secretary****5. Bates # X000007-X000010****A. Document Description****Date: 3/3/94****Transmittal from Senate to John Podesta w/attachments****B. File Origin****Individual: Todd Stern****Office: Staff Secretary****6. Bates # X000011-X000066****A. Document Description****Date: 3/1/94****Hearing Transcript****B. File Origin****Individual: Todd Stern****Office: Staff Secretary**

7. Bates # X000067-X000074

A. Document Description

Date: 3/1/94

Transmittal of Press Release and attachments

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

8. Bates # X000075

A. Document Description

Date: 2/22

To Do List

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

9. Bates # X000076-X000079

A. Document Description

Date: 2/28/94

Memorandum for File

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

10. Bates # X000080-X000095

A. Document Description

Date: 2/23/94

Transmittal for Todd Stern

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

11. Bates # X000096-X000181

A. Document Description

Date: Undated

Q's and A's

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

12. Bates # X000182-X000196

A. Document Description

Date: Range (2/94 - 3/94)

Telephone Log - John Podesta

B. File Origin

Individual: John Podesta

Office: Staff Secretary

13. Bates # X000197-X000198**A. Document Description****Date: 3/4/94****Transmittal from Roger C. Altman****B. File Origin****Individual: John Podesta****Office: Staff Secretary****14. Bates # X000199-X000203****A. Document Description****Date: 3/7/94****White House Correspondence Tracking Work Sheet (and attachment)****B. File Origin****Individual: John Podesta****Office: Staff Secretary****15. Bates # X000204-X000206****A. Document Description****Date: 2/3/94****Letter from Congressman Leach to Roger Altman****B. File Origin****Individual: John Podesta****Office: Staff Secretary**

16. Bates # X000207

A. Document Description

Date: 3/3/94

Memorandum for White House Staff

B. File Origin: General Distribution

17. Bates # X000208-X000209

A. Document Description

Date: 3/2/94

Letter to Senator Riegle from Roger Altman

B. File Origin

Individual: George Stephanopoulos

Office: Immediate Office of the President

18. Bates # X000210-X000211

A. Document Description

Date: 3/7/94

File Memorandum

B. File Origin

Individual: David Gergen

Office: Immediate Office of the President

19. Bates # X000212

A. Document Description

Date: 3/5/94

Handwritten notes

B. File Origin

Individual: David Gergen

Office: Immediate Office of the President

20. Bates # X000213-X000218

A. Document Description

Date: Undated

Chronology

B. File Origin

Individual: Kevin O'Keefe

Office: Presidential Personnel

21. Bates # X000219-X000223

A. Document Description

Date: 3/1/94

Press Briefing Transcript

B. File Origin

Individual: Patsy Thomasson

Office: Executive Office of the President,
Office of Administration

22. Bates # X000224-X000240**A. Document Description****Date: 3/7/94****Speech****B. File Origin****Individual: General Files****Office: Legislative Affairs****23. Bates # X000241-X000245****A. Document Description****Date: 3/1/94****Transmittal from Congressman Leach to Bernard Nussbaum****B. File Origin****Individual: General Files****Office: Legislative Affairs****24. Bates # X000246-X000261****A. Document Description****Date: 1/27/94****Talking Points****B. File Origin****Individual: General Files****Office: Legislative Affairs**

25. Bates # X000262-X000282

A. Document Description

Date: 1/27/94

Talking Points

B. File Origin

Individual: General Files

Office: Legislative Affairs

26. Bates # X000283-X000285

A. Document Description

Date: 1/10

Draft Synopsis

B. File Origin

Individual: General Files

Office: Legislative Affairs

27. Bates # X000286

A. Document Description

Date: 3/1/94

News Release

B. File Origin

Individual: General Files

Office: Legislative Affairs

28. Bates # X000287-X000288

A. Document Description

Date: 3/3/94

**Draft Transcript of President's Q's & A's
(and attachments)**

B. File Origin

Individual: Kristin Schneeman

Office: Office of the Vice President

29. Bates # X000289-X000290

A. Document Description

Date: 3/7/94

**Letter from Robert Fiske to Congressmen Gonzales and
Leach**

B. File Origin

Individual: Jack Quinn

Office: Office of the Vice President

30. Bates # X000291-X000299

A. Document Description

Date: Undated

Altman Meeting - Press

B. File Origin

Individual: Jack Quinn

Office: Office of the Vice President

31. Bates # X000300-X000314

A. Document Description

Date: 3/7/94

Speech

B. File Origin

Individual: Mike Feldman

Office: Office of the Vice President

32. Bates # X000315

A. Document Description

Date: 3/6/94

Newsclipping - NYT

B. File Origin

Individual: Mike Feldman

Office: Office of the Vice President

33. Bates # X000316-X000324

A. Document Description

Date: 1/15-16/94

Briefing Book

B. File Origin

Individual: Bob Lehrman

Office: Office of the Vice President

34. Bates # X000325-X000328**A. Document Description****Date: 3/4/94****"Meet the Press" Briefing****B. File Origin****Individual: Michael Burton****Office: Office of the Vice President****35. Bates # X000329-X000337****A. Document Description****Date: Undated****Altman Meeting - Press****B. File Origin****Individual: Michael Burton****Office: Office of the Vice President****36. Bates # X000338****A. Document Description****Date: 3/4/94****Fax to Greg Simon****B. File Origin****Individual: Michael Burton****Office: Office of the Vice President**

37. Bates # X000339-X000344

A. Document Description

Date: 3/6/94

Briefing Book

B. File Origin

Individual: Todd Campbell

Office: Office of the Vice President

38. Bates # X000345-X000347

A. Document Description

Date: 3/6/94

"Meet the Press" (and attachments)

B. File Origin

Individual: Eric Anderson

Office: Office of the Vice President

39. Bates # X000348-X000351

A. Document Description

Date: 3/4/94

"Meet the Press" Briefing

B. File Origin

Individual: Eric Anderson

Office: Office of the Vice President

40. Bates # X000352-X000355

A. Document Description

Date: Undated

Transmittal - Q's and A's

B. File Origin

Individual: Michela Alioto

Office: Office of the Vice President

41. Bates # X000356-X000362

A. Document Description

Date: 3/6/94

Briefing Book

B. File Origin

Individual: Lorraine Voles

Office: Office of the Vice President

42. Bates # X000363-X000377

A. Document Description

Date: 1/7/"93" (written in 1994)

To: Vice President

From: Lorraine Voles
(and attachments)

B. File Origin

Individual: Lorraine Voles

Office: Office of the Vice President

43. Bates # X000378-X000387

A. Document Description

Date: Undated

Altman Meeting - Press

B. File Origin

Individual: Kumicki Gibson

Office: Office of the Vice President

44. Bates # X000388-X000389

A. Document Description

Date: 3/3/94

Whitewater Q & A

B. File Origin

Individual: Jim Kohlenberger

Office: Office of the Vice President

45. Bates # X000390-X000395

A. Document Description

Date: 2/25/94

Morning Digest

B. File Origin

Individual: Thomas Castleton

Office: Counsel's Office

46. Bates # X000396-X000405

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Kathleen Whalen

Office: Counsel's Office

47. Bates # X000406-X000409

A. Document Description

Date: Undated

Draft Memorandum

B. File Origin

Individual: Kathleen Whalen

Office: Counsel's Office

48. Bates # X000410-X000412

A. Document Description

Date: 1/8

Draft Synopsis

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

49. Bates # X000413-X000420

A. Document Description

Date: 2/8/94

News Release

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

50. Bates # X000421-X000425

A. Document Description

Date: 1/25/94

Letter from Senator D'Amato to Roger Altman

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

51. Bates # X000426-X000432

A. Document Description

Date: 3/3/94

Floor Statement

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

52. Bates # X000433-X000434

A. Document Description

Date: 3/3/94

Whitewater/Madison Update

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

53. Bates # X000435-X000437

A. Document Description

Date: 3/3/94

Draft Transcript

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

54. Bates # X000438

A. Document Description

Date: 3/3/94

Letter to the President from Senator Specter

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

55. Bates # X000439

A. Document Description

Date: 3/3/94

Statement of Senator Bentsen

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

56. Bates # X000440-X000442

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

57. Bates # X000443-X000444

A. Document Description

Date: 3/1/94

News Release

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

58. Bates # X000445-X000448

A. Document Description

Date: 3/1/94

Letter from Congressman Leach to Bernard Nussbaum and others

From: Rep. James Leach

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

59. Bates # X000449-X000465

A. Document Description

Date: Undated

Transcript Excerpt

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

60. Bates # X000466-X000469

A. Document Description

Date: 3/7/94

Transmittal from from Ronald Noble to Bernard Nussbaum

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

61. Bates # X000470

A. Document Description

Date: 3/8/94

Handwritten notes

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

62. Bates # X000471

A. Document Description

Date: 3/8/94

Handwritten notes

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

63. Bates # X000472-X000475

A. Document Description

Date: 11/18/93

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

64. Bates # X000476-X000477

A. Document Description

Date: 2/18/94

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

65. Bates # X000478-X000481

A. Document Description

Date: 1/27/94

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

66. Bates # X000482-X000485

A. Document Description

Date: 2/4/94

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

67. Bates # X000486-X000489

A. Document Description

Date: 2/10/94

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

68. Bates # X000490-X000492

A. Document Description

Date: 2/24/94

Memoranda RE: weekly report

B. File Origin

Individual: Christine Varney

Office: Cabinet Affairs

69. Bates # X000493-X000494

A. Document Description

Date: 3/3/94

Draft Transcript

B. File Origin

Individual: Kristin Schneeman

Office: Office of the Vice President

70. Bates # X000495-X000496

A. Document Description

Date: 10/14/93

Gearan Schedule

B. File Origin

Individual: Steven Cohen

Office: Communications

71. Bates # X000497

A. Document Description

Date: 2/22/94

Talking Points on Congressional Hearings
on RTC

B. File Origin

Individual: Kathleen McKiernan

Office: Communications

72. Bates # X000498-X000500

A. Document Description

Date: 1/8

Draft Synopsis

B. File Origin

Individual: Victoria Radd

Office: Counsel's Office

73. Bates # X000501-X000518**A. Document Description****Date: 3/7/94****Speech****B. File Origin****Individual: Eric Senunas****Office: Legislative Affairs****74. Bates # X000519-X000521****A. Document Description****Date: 3/3/94****News Release****B. File Origin****Individual: Eric Senunas****Office: Legislative Affairs****75. Bates # X000522-X000528****A. Document Description****Date: 3/3/94****Floor Statement****B. File Origin****Individual: Eric Senunas****Office: Legislative Affairs**

76. Bates # X000529

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Eric Senunas

Office: Legislative Affairs

77. Bates # X000530

A. Document Description

Date: 2/22/94

Talking Points

B. File Origin

Individual: Virginia Tersano

Office: Communications

78. Bates # X000531

A. Document Description

Date: Undated

Appointment Log

B. File Origin

Individual: Craig Livingstone

Office: Counsel's Office

79. Bates # X000532-X000533

A. Document Description

Date: 3/3/94

Possible Questions

B. File Origin

Individual: Virginia Terzano

Office: Communications

80. Bates # X000534-X000535

A. Document Description

Date: 10/20/93

Memorandum to File

B. File Origin

Individual: William Kennedy

Office: Counsel's Office

81. Bates # X000536

A. Document Description

Date: 10/13/93

Bruce Lindsey Call List

B. File Origin

Individual: Deborah Coyle

Office: Immediate Office of the President

82. Bates # X000537**A. Document Description****Date: 10/14/93****Appointment Calendar****B. File Origin****Individual: Deborah Coyle****Office: Immediate Office of the President****83. Bates # X000538-X000539****A. Document Description****Date: 10/20/93****Memorandum to File****B. File Origin****Individual: Deborah Coyle****Office: Immediate Office of the President****84. Bates # X000540-X000543****A. Document Description****Date: 2/28/94****Memorandum to File****B. File Origin****Individual: Joel Klein****Office: Counsel's Office**

85. Bates # X000544-X000546

A. Document Description

Date: 1/25

Draft Synopsis

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

86. Bates # X000547-X000550

A. Document Description

Date: 2/8/94

Synopsis

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

87. Bates # X0005551-X000554

A. Document Description

Date: 2/28/94

Memorandum to File

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

88. Bates # X000555-X000558

A. Document Description

Date: 3/1/94

Letter from Congressman Leach to Bernard Nussbaum and others

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

89. Bates # X000564-X000565

A. Document Description

Date: 1/6/94-2/3/94

Steno Notebook Excerpt & Transcription

B. File Origin

Individual: Patricia McHugh

Office: Immediate Office of the President

90. Bates # X000566

A. Document Description

Date: January 1994

Jean Hanson Appointments

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

91. Bates # X000567-X000576

A. Document Description

Date: 3/7/94

Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

92. Bates # X000577-X000581

A. Document Description

Date: 3/1/94

Letter from Congressman Leach to Bernard Nussbaum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

93. Bates # X000582

A. Document Description

Date: 3/3/94

Letter from Roger Altman to Senator Riegle

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

94. Bates # X000583

A. Document Description

Date: 3/2/94

Letter from Roger Altman to Senator Riegle

From: Roger Altman

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

95. Bates # X000584-X000593

A. Document Description

Date: 3/7/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

96. Bates # X000594-X000603

A. Document Description

Date: 3/7/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

97. Bates # X000604-X000613

A. Document Description

Date: 3/7/94

Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

98. Bates # X000614-X000623

A. Document Description

Date: 3/7/94

Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

99. Bates # X000624-X000625

A. Document Description

Date: 3/7/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

100. Bates # X000626-X000635

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

101. Bates # X000636-X000646

A. Document Description

Date: 3/5/94

Draft Memorandum (draft)

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

102. Bates # X000647-X000665

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

103. Bates # X000666

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

104. Bates # X000667-X000672

A. Document Description

Date: Undated

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

105. Bates # X000673-X000679

A. Document Description

Date: 3/3/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

106. Bates # X000680-X000684

- A. Document Description**
 Date: Undated
 Memo Excerpt
- B. File Origin**
 Individual: Cheryl Mills
 Office: Counsel's Office

107. Bates # X000685-X000692

- A. Document Description**
 Date: 3/5/94
 Draft Memorandum
- B. File Origin**
 Individual: Cheryl Mills
 Office: Counsel's Office

108. Bates # X000693-X000714

- A. Document Description**
 Date: 3/5/94
 Draft Memorandum
- B. File Origin**
 Individual: Cheryl Mills
 Office: Counsel's Office

109. Bates # X000715-X000720

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

110. Bates # X000721-X000731

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

111. Bates # X000732-X000740

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

112. Bates # X000741-X000749

A. Document Description

Date: 3/5/94

Draft Memorandum

B. File Origin

Individual: Cheryl Mills

Office: Counsel's Office

113. Bates # X000750-X000754

A. Document Description

Date: 2/4/et seq.

Daily Phone Log

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

114. Bates # X000755-X000777

A. Document Description

Date: 2/3/94

Letter from Congressman Leach to Roger Altman

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

115. Bates # X000778

A. Document Description

Date: Undated

Phone Message

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

116. Bates # X000779-X000794

A. Document Description

Date: 3/8/94

Memorandum

From: Terry Good (w/attachments)

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

117. Bates # X000795-X000796

A. Document Description

Date: Undated

Note & News Article

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

118. Bates # X000797-X000800

A. Document Description

Date: 3/3/94

Draft Memorandum

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

119. Bates # X000801-X000801C

A. Document Description

Date: 2/10/94

Letter to Congressman Lightfoot and related correspondence

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

120. Bates # X000802-X000804

A. Document Description

Date: 2/4 and 2/9

Phone Logs

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

121. Bates # X000805-X000860

A. Document Description

Date: 3/1/94

Hearing Transcript

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

122. Bates # X000861-X000865

A. Document Description

Date: 3/1/94

Transmittal for Congressman Leach

From: Cong. Leach (and attachments)

B. File Origin

Individual: Beth Nolan

Office: Counsel's Office

123. Bates # X000866

A. Document Description

Date: 3/4/94

Letter to Speaker Foley

B. File Origin

Individual: Mack McLarty

Office: Office of the Chief of Staff

124. Bates # X000867-X000869

A. Document Description

Date: 3/2/94

Letter to Congressman Mitchell

B. File Origin

Individual: Mack McLarty

Office: Office of the Chief of Staff

125. Bates # X000872-X000873

A. Document Description

Date: 3/3/94

Letter to Senator Riegle from Roger Altman

B. File Origin

Individual: Mack McLarty

Office: Office of the Chief of Staff

126. Bates # X000874-X000877

A. Document Description

Date: 3/3/94

Transcript

B. File Origin

Individual: Mack McLarty

Office: Office of the Chief of Staff

127. Bates # X000878-X000888

A. Document Description

Date: 3/4/94

Miscellaneous Notes & Questions

B. File Origin

Individual: Dee Dee Myers

Office: Communications

128. Bates # X000889-X000890

A. Document Description

Date: 3/3/94

Dee Dee Myers Phone Log

B. File Origin

Individual: Dee Dee Myers

Office: Communications

129. Bates # X000891

A. Document Description

Date: 2/22/94

Talking Points

B. File Origin

Individual: Dee Dee Myers

Office: Communications

130. Bates # X000892-X000894

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Dee Dee Myers

Office: Communications

131. Bates # X000895-X000897

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Dee Dee Myers

Office: Communications

132. Bates # X000898

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Dee Dee Myers

Office: Communications

133. Bates # X000899-X000900

A. Document Description

Date: 3/1/94

News Release

B. File Origin

Individual: Dee Dee Myers

Office: Communications

134. Bates # X000901-X000902

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Paul Toback

Office: Office of the Chief of Staff

135. Bates # X000903

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Paul Toback

Office: Office of the Chief of Staff

136. Bates # X000904

A. Document Description

Date: Undated

Shorthand Notes

B. File Origin

Individual: Paul Toback

Office: Office of the Chief of Staff

137. Bates # X000905

A. Document Description

Date: Undated

Notebook Excerpt

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

138. Bates # X000906-X000910

A. Document Description

Date: 3/1/94

Transmittal to Bernard Nussbaum

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

139. Bates # X000911

A. Document Description

Date: 10/7/93

Memorandum

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

140. Bates # X000912-X000967

A. Document Description

Date: 3/1/94

Hearing Transcript

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

141. Bates # X000968

A. Document Description

Date: Undated

Monthly Minder Excerpts

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

142. Bates # X000969-X00975

A. Document Description

Date: 2/94

Memorandum

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

143. Bates # X000976

A. Document Description

Date: 10/7

Phone Log

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

144. Bates # X000977-X000979

A. Document Description

Date: 9/29/93

Appointment Calendar, Notebook

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

145. Bates # X000980

A. Document Description

Date: Undated

Notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

146. Bates # X000981-X000982

A. Document Description

Date: Undated

Talking Points

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

147. Bates # X000983-X000986

A. Document Description:

Date: 9/30, 10/7

Handwritten Notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel

148. Bates # X000987-X001042

A. Document Description

Date: 3/1/94

Transcript Hearing

B. File Origin

Individual: John Podesta

Office: Staff Secretary

149. Bates # X001043

A. Document Description

Date: 2/2/94

Telephone Bill

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

153. Bates # X001044-X001046

A. Document Description

Date: 4/8/94

Fax coversheet w/ atch calendars for February 1994

B. File Origin

Individual: John Podesta

Office: Staff Secretary

154. Bates # X001047-X001048

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Mark Gearan

Office: Communications

155. Bates # X001049-X001050

A. Document Description

Date: 10/20/93

Memorandum for File

B. File Origin

Individual: Mark Gearan

Office: Communications

156. Bates # X001051

A. Document Description

Date: 2/7/94

Telephone Log for Mark Gearan

B. File Origin

Individual: Mark Gearan

Office: Communications

157. Bates # X001052

A. Document Description

Date: 9/24/93

Telephone Log for Mark Gearan

B. File Origin

Individual: Mark Gearan

Office: Communications

158. Bates # X001053

A. Document Description

Date: 9/30/93, 10/03/93, 10/14/93

Telephone Log for Mark Gearan

B. File Origin

Individual: Mark Gearan

Office: Communications

159. Bates # X001054**A. Document Description****Date: 2/2/94****Telephone Log for Mark Gearan****B. File Origin****Individual: Mark Gearan****Office: Communications****160. Bates # X001055****A. Document Description****Date: 10/14/93****Schedule for Mark Gearan****B. File Origin****Individual: Mark Gearan****Office: Communications****161. Bates # X00156-X001058****A. Document Description****Date: Undated****"Navigator" Notebook, Margaret Williams****B. File Origin****Individual: Margaret Williams****Office: Office of The First Lady****162. Bates # X001059****A. Document Description****Date: 2/2/94, 2/3/94****Calendar for Margaret Williams****B. File Origin****Individual: Margaret Williams****Office: Office of The First Lady**

163. Bates # X001060

A. Document Description

Date: 2/4/94

Carbon Log of Telephone Call

B. File Origin

Individual: Margaret Williams

Office: Office of The First Lady

164. Bates # X00161-X001062

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Margaret Williams

Office: Office of The First Lady

165. Bates # X001063-X001064

A. Document Description

Date: 3/3/94

News Release

B. File Origin

Individual: Margaret Williams

Office: Office of The First Lady

166. Bates # X001065-X001120

A. Document Description

Date: 3/1/94

Memorandum for File

B. File Origin

Individual: Margaret Williams

Office: Office of The First Lady

167. Bates # X001121-X001123

A. Document Description

Date: Undated

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Lisa Caputo

Office: Office of The First Lady

168. Bates # X001124-X001126

A. Document Description

Date: 1/7

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Lisa Caputo

Office: Office of The First Lady

169. Bates # X001127-X001129

A. Document Description

Date: 1/8

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Lisa Caputo

Office: Office of the First Lady

170. Bates # X001130-X001142

A. Document Description

Date: 2/3/94

Transmittal from Jean Hanson to Bernie Nussbaum, with attachments

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

171. Bates # X001143-X001147

A. Document Description

Date: 2/3/94

Transmittal from Jean Hanson to Bernie Nussbaum with attachments

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

172. Bates # X001148

A. Document Description

Date: 3/3/94

Letter from Roger Altman to Senator Riegle

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

173. Bates # X001149

A. Document Description

Date: 3/2/94

Letter from Roger Altman to Senator Riegle

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

174. Bates # X00150-X001152

A. Document Description

Date: 3/1/94

Facsimile - Letter from Congressman Leach to Mr. Nussbaum

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

175. Bates # X001153-X001155

A. Document Description

Date: 3/3/94

Draft Transcript of the President's Q & A

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

176. Bates # X001156-X001159

A. Document Description

Date: 2/28/94

Memorandum for File

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

177. Bates # X001160-X001168

A. Document Description

Date: 2/18

Draft Chronology

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

178. Bates # X001169-X001174

A. Document Description

Date: Undated

Draft Chronology

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

179. Bates # X001175-X001176

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

180. Bates # X001175-X001176

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

181. Bates # X001179-X001180

A. Document Description

Date: 10/20/93

Memorandum to File

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

182. Bates # X001181-X001182

A. Document Description

Date: Undated

Jenny Tersano - "ABC has asked Roger Altman the following questions?"

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

183. Bates # X001183-X001186

A. Document Description

Date: 12/2/93

Letters from Susan Baer (Baltimore Sun), and Washington Post written to FDIC. Faxed from Eugene Ludwig to Bruce Lindsey

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

184. Bates # X001187-X001190

A. Document Description

Date: 12/2/93

Letters from Susan Baer (Baltimore Sun), and Washington Post written to FDIC. Faxed from J. Steiner to Bruce Lindsey

B. File Origin

Individual: Bruce Lindsey

Office: Office Files

185. Bates # X001191

A. Document Description

Date: Undated

File Folder Label - "RTC - Clinton personal"

B. File Origin

Individual: Harold Ickes

Office: Office Files

186. Bates # X001192

A. Document Description

Date: 2/2/94

Handwritten Notes

B. File Origin

Individual: Harold Ickes

Office: Office Files

187. Bates # X001193

A. Document Description

Date: 3/3/94

Memorandum for the White House Staff

B. File Origin

Individual: Harold Ickes

Office: Office Files

188. Bates # X001194

A. Document Description

Date: 3/3/94

Memorandum for Assistants to the President, Deputy Assistants to the President

B. File Origin

Individual: Harold Ickes

Office: Office Files

189. Bates # X001195

A. Document Description

Date: 3/3/94

Letter from Roger Altman to Senator Riegle

B. File Origin

Individual: Harold Ickes

Office: Office Files

190. Bates # X001196

A. Document Description

Date: 2/2/94

Possible Questions Regarding Wash Post/Web Hubbell Article

B. File Origin

Individual: Harold Ickes

Office: Office Files

191. Bates # X001197

A. Document Description

Date: 3/3/94

Memorandum for Assistants to the President, Deputy Assistants to the President

B. File Origin

Individual: Harold Ickes

Office: Office Files

192. Bates # X001198

A. Document Description

Date: 3/3/94

Memorandum for the White House Staff

B. File Origin

Individual: Harold Ickes

Office: Office Files

193. Bates # X001199

A. Document Description

Date: 3/3/94

Memorandum for Assistants to the President, Deputy Assistants to the President

B. File Origin

Individual: Harold Ickes

Office: Office Files

194. Bates # X001200-X001201

A. Document Description

Date: 3/1/94

Memorandum from Harold Ickes to The First Lady

B. File Origin

Individual: Harold Ickes

Office: Office Files

195. Bates # X001202-X001203

A. Document Description

Date: 3/1/94

Memorandum from Harold Ickes to The First Lady

B. File Origin

Individual: Harold Ickes

Office: Office Files

196. Bates # X001204-X001259

A. Document Description

Date: 3/1/94

Memorandum for File

B. File Origin

Individual: Harold Ickes

Office: Office Files

197. Bates # X001260-X001263

A. Document Description

Date: 2/28/94

Memorandum for File

B. File Origin

Individual: Harold Ickes

Office: Office Files

198. Bates # X001264-X001265

A. Document Description

Date: 1/25/94

Letter from Senator D'Amato to Roger Altman

B. File Origin

Individual: Harold Ickes

Office: Office Files

199. Bates # X001266-X001281**A. Document Description****Date: 2/3/94****Letter from Congressman Leach to Roger Altman****B. File Origin****Individual: Harold Ickes****Office: Office Files****200. Bates # X001282-X001330****A. Document Description****Date: 5/13/93, 1/28/94, 1/26/94****Excerpts from Congressional Record****B. File Origin****Individual: Harold Ickes****Office: Office Files****201. Bates # X001331****A. Document Description****Date: 2/22/94****Wall Street Journal News Article****B. File Origin****Individual: Harold Ickes****Office: Office Files****202. Bates # X001332****A. Document Description****Date: 3/3/94****New York Times News Article****B. File Origin****Individual: Harold Ickes****Office: Office Files**

203. Bates # X001333

- A. Document Description**
Date: 2/25/94
Washington Post News Article
- B. File Origin**
Individual: Harold Ickes
Office: Office Files

204. Bates # X001334

- A. Document Description**
Date: Undated
News Article
- B. File Origin**
Individual: Harold Ickes
Office: Office Files

205. Bates # X001335

- A. Document Description**
Date: 2/26/94
Washington Post News Article
- B. File Origin**
Individual: Harold Ickes
Office: Office Files

206. Bates # X001336

- A. Document Description**
Date: 2/26/94
Filed News Article
- B. File Origin**
Individual: Harold Ickes
Office: Office Files

207. Bates # X001337-X001338

A. Document Description

Date: 2/26/94

Washington Times News Article

B. File Origin

Individual: Harold Ickes

Office: Office Files

208. Bates # X001339

A. Document Description

Date: 2/25/94

Wall Street Journal News Article

B. File Origin

Individual: Harold Ickes

Office: Office Files

209. Bates # X001340-X001343

A. Document Description

Date: 1994

Calander and Telephone message entries

B. File Origin

Individual: Harold Ickes

Office: Office Files

210. Bates # X001346-X001348

A. Document Description

Date: 3/23/93

**Selected News Articles, Faxed from Roger Altman to
Bernie Nussbaum**

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

211. Bates # X001349-X001354

A. Document Description

Date: 3/24/93

**Selected News Articles, Faxed from Roger Altman to
Bernie Nussbaum**

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

212. Bates # X001355-X001367

A. Document Description

Date: 2/3/94

**Letter from Congressman Leach to Roger Altman,
faxed from Jean Hanson to Bernie Nussbaum**

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

213. Bates # X001368-X001372

A. Document Description

Date: 2/3/94

Transmittal from Jean Hanson to Bernie Nussbaum

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

214. Bates # X001373-X001374

A. Document Description

Date: 1993 September, October

Calander of Bernard W. Nussbaum

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

215. Bates # X001375

A. Document Description

Date: 2/3/94

Telephone Log for Bernard Nussbaum

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

216. Bates # X001376

A. Document Description

Date: 2/24/94

Telephone Log for Bernard Nussbaum

B. File Origin

Individual: Bernard Nussbaum

Office: Counsel's Office

217. Bates # X001377-X001383**A. Document Description:****Date:** 9/20/93**Letter from Bernard Nussbaum to Senator Bumpers****B. File Origin****Individual:** Unknown**Office:** Records Management**218. Bates # X001384-X001398****A. Document Description****Date:** 7/14/93**White House Correspondence Tracking Worksheet, with Memoranda and Letters atch****B. File Origin****Individual:** Unknown**Office:** Records Management**219. Bates # X001399****A. Document Description****Date:** 9/20/93**Letter to Senator Bumpers from Bernard Nussbaum****B. File Origin****Individual:** Carlos Watson (Summer 1993 Intern)**Office:** Counsel's Office

PRODUCTION LOG

220. Bates # X001400-X001405

A. Document Description

Date: 8/18/93

Transmittal to Carlos Watson from Dan Cooke

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

221. Bates # X001406-X001408

A. Document Description

Date: 7/13/93

Letter to Senator Bumpers from Bernard Nussbaum

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

222. Bates # X001409-X001413

A. Document Description

Date: 5/20/93

Letter to Senator Bumpers and Senator Pryor from Seth Ward

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

PRODUCTION LOG

223. Bates # X001414-X001419

A. Document Description

Date: 5/12/93

Letter to Senator Bumpers from William Jackson Butt, II

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

224. Bates # X001420-X001421

A. Document Description

Date: 5/26/93

Letter to Roger Altman and Bernard Nussbaum
from Senator Bumpers

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

225. Bates # X001422-X001436

A. Document Description

Date: 7/14/93

White House Correspondence Tracking Worksheet with
Memoranda and Letters

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

PRODUCTION LOG

226. Bates # X001437-X001451

A. Document Description

Date: 7/14/93

White House Correspondence Tracking Worksheet with
Memoranda and Letters

B. File Origin

Individual: Carlos Watson (Summer 1993 Intern)

Office: Counsel's Office

WHITE HOUSE PRODUCTION LOG
JULY 1, 1996
BATES Y000001 - Y000018

1. Bates # Y000001-Y000007
Document Description
Date: 2/22/93
Memorandum For White House Staff
From: Bernard Nussbaum
Stephen Neuwirth
RE: Prohibited Contacts with Agencies
2. Bates # Y000008-Y000010
Document Description
Date: 3/9/93
Memorandum For All White House Staff
From: Bernard Nussbaum
Stephen Neuwirth
RE: Prohibited Contacts with Agencies:
Follow-up Memorandum
3. Bates # Y000011-Y000012
Document Description
Date: 5/4/93
Memorandum For All White House Staff
From: Bernard Nussbaum
Stephen Neuwirth
RE: Prohibited Contacts with Agencies

4. Bates # Y000013-Y000015

Document Description

Date: 7/2/93

Memorandum For White House Staff

From: Bernard Nussbaum
Clifford M. Sloan

RE: Policy Regarding Investigations and Investigatory
Agencies

5. Bates # Y000016

Document Description

Date: 3/3/94

Memorandum For The White House Staff

From: Mack McLarty

RE: Contacts regarding Madison Guaranty, Whitewater
and related matters

6. Bates # Y000017-Y000018

Document Description

Date: 3/11/94

Memorandum For All White House Staff

From: Jack Quinn
Joel I. Klein

RE: Prohibited Contacts on Rulemaking Matters

WHITE HOUSE PRODUCTION LOG
July 1, 1994
BATES Z000001 - Z000387

1. Bates #Z000001-Z000006

A. Document Description

Date: Undated

Copy of handwritten "VWF-Working Files"

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

2. Bates #Z000007-Z000010

A. Document Description

Date: 2/4/94

World News Tonight - ABC - Printed Segment of Newscast

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

3. Bates #Z000011-13 and Z000015-17

A. Document Description

Date: Undated

**File Cover - "Park Police FOIA Request/WSJ FOIA
Litigation" (w/attachments)**

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

4. Bates #Z000022-Z000026

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

5. Bates #Z000027

A. Document Description

Date: 7/30/93

"Responses to Taken Questions"

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

6. **Bates #Z000028-Z000031**
 - A. **Document Description**
Date: Undated
Q and A
 - B. **File Origin**
Individual: Steve Neuwirth
Office: Counsel's Office

7. **Bates #Z000032-Z000033**
 - A. **Document Description**
Date: 7/28/93
Draft Proposed Statement
 - B. **File Origin**
Individual: Steve Neuwirth
Office: Counsel's Office

8. **Bates #Z000034**
 - A. **Document Description**
Date: 7/28/93
Draft Proposed Statement
 - B. **File Origin**
Individual: Steve Neuwirth
Office: Counsel's Office

9. Bates #Z000035

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

10. Bates #Z000036

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

11. Bates #Z000037-Z000053

A. Document Description

Date: 7/30/93

Press Briefing

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

12. Bates #Z000054-Z000075

A. Document Description

Date: 8/10/93

Press Conference Transcript

B. File Origin

Individual: Steve Neuwirth

Office: Counsel's Office

13. Bates #Z000076-Z000077

A. Document Description

Date: Undated

The First Lady's Responses to Questions of Boston Globe Readers

B. File Origin

Individual: Lisa Caputo

Office: Office of the First Lady

14. Bates #Z000078-Z000079

A. Document Description

Date: 1/24

Draft Chronology

B. File Origin

Individual: General Files

Office: Counsel's Office

15. Bates #Z000080

A. Document Description

Date: Undated

Question and Answer

B. File Origin

Individual: General Files

Office: Counsel's Office

16. Bates #Z000081-Z000082

A. Document Description

Date: 1/17

Draft Chronology

B. File Origin

Individual: General Files

Office: Counsel's Office

17. Bates #Z000083-Z000085

A. Document Description

Date: 1/8

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: General Files

Office: Counsel's Office

18. Bates #Z000086-Z000089

A. Document Description

Date: Undated

Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: General Files

Office: Counsel's Office

19. Bates #Z000090-Z000091

A. Document Description

Date: Undated

The First Lady's Responses to Questions of Boston Globe's Readers

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

20. Bates #Z000092-Z000095

A. Document Description

Date: 3/21/94

General Talking Points on Whitewater

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

21. Bates #Z000096-Z000114

A. Document Description

Date: 4/22/94

Press Conference By The First Lady

B. File Origin

Individual: Todd Stern

Office: Staff Secretary

22. Bates #Z000115-Z000117

A. Document Description

Date: 12/22

Draft Re: Inconsistencies in recent news reports

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

23. Bates #Z000118-Z000121

A. Document Description

Date: Undated

Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

24. Bates #Z000122-Z000123

A. Document Description

Date: Undated

Untitled memo

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

25. Bates #Z000124-Z000125

A. Document Description

Date: Undated

Untitled memo

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

26. Bates #Z000126-Z000128

A. Document Description

Date: 1/25

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

27. Bates #Z000129-Z000131

A. Document Description

Date: 1/25

Draft Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

28. Bates #Z000132-Z000136

A. Document Description

Date: 2/8/94

Synopsis of Whitewater/Madison Guaranty Matter

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

29. Bates #Z000137-Z000138

A. Document Description

Date: Undated

Q and A

B. File Origin

Individual: Neil Eggleston

Office: Counsel's Office

30. Bates #Z000139-Z000140

A. Document Description

Date: Undated

Typed notes, Handwritten notes

B. File Origin

Individual: Sylvia Mathews

Office: National Economic Council

31. Bates #Z000141

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

32. Bates #Z000142

A. Document Description

Date: 7/27/93

Letter from Bernard Nussbaum to Jim Hamilton

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

33. Bates #Z000143-Z000145

A. Document Description

Date: 1/6/94

Responses to Safire Piece

B. File Origin

Individual: Maggie Williams

Office: Office of the First Lady

34. Bates #Z000146-Z000157

A. Document Description

Date: 8/10/93

Transcript of Press Conference

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

35. Bates #Z000158

A. Document Description

Date: Undated

GAO Questions for Ms. Patsy Thomasson

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

36. Bates #Z000159

A. Document Description

Date: Undated

Draft typed statement

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

37. Bates #Z000160-Z000161

A. Document Description

Date: 3/9/94

Letter from Rep. Wolf and Istook to Mr. Fiske

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

38. Bates #Z000162-Z000163

A. Document Description

Date: 3/9/94

Letter from Rep. Wolf and Istook to Mr. Fiske

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

39. Bates #Z000164-Z000171

A. Document Description

Date: 9/3/93

Letter from Major Hines to Mr. Nussbaum, w/attachments

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

40. Bates #Z000177

A. Document Description

Date: Undated

Memo RE: Foster Files

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

41. Bates #Z000178-Z000180

A. Document Description

Date: 12/22

Draft Re: Inconsistencies In Recent News Reports

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

42. Bates #Z000181-Z000182

A. Document Description

Date: 7/22-8/8

Handwritten Notes - Foster File

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

43. Bates #Z000183

A. Document Description

Date: Undated

Draft statement with handwritten notes

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

44. Bates #Z000184

A. Document Description

Date: 12/20/93

Statement by the Director of Communications Mark Gearan

B. File Origin

Individual: Joel Klein

Office: Counsel's Office

45. Bates #Z000185

A. Document Description

Date: 12/23/93

Press Release

B. File Origin

Individual: Jake Siewert

Office: Communications

46. Bates #Z000186-Z000190

A. Document Description

Date: 9/17/93

White House Tracking Sheet (w/ attachments)

B. File Origin

Individual: General Files

Office: Records Management

47. Bates #Z000196-Z000202

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

48. Bates #Z000203-Z000216

A. Document Description

Date: 8/10/93

Press Briefing

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

49. Bates #Z000217-000236

A. Document Description

Date: 8/11/93

Press Briefing

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

50. Bates #Z000237-Z000252

A. Document Description

Date: 7/21/93

Press Briefing

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

51. Bates #Z000253-Z000269

A. Document Description

Date: 7/30/93

Press Briefing

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

52. Bates #Z000270-Z000293

A. Document Description

Date: 7/29/93

Press Briefing

B. File Origin

Individual: Marvin Krislov

Office: Counsel's Office

53. Bates #Z000294-Z000296

A. Document Description

Date: 7/28/93

Draft Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

54. Bates #Z000297-Z000298

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

55. Bates #Z000299-Z000300

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

56. Bates #Z000301

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

57. Bates #Z000302

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

58. Bates #Z000303

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

59. Bates #Z000304

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

60. Bates #Z000305-Z000306

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

61. Bates #Z000307

A. Document Description

Date: 7/28/93

Nussbaum Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

62. Bates #Z000308

A. Document Description

Date: 7/28/93

Nussbaum Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

63. Bates #Z000309

A. Document Description

Date: 7/28/93

Nussbaum Statement

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

64. Bates #Z000310

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

65. Bates #Z000311

A. Document Description

Date: Undated

Handwritten Notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

- 66. Bates #Z000312-Z000313**
- A. Document Description**
- Date:** 7/20
- Draft Chronology**
- B. File Origin**
- Individual:** Cliff Sloan
- Office:** Counsel's Office
-
- 67. Bates #Z000314-Z000315**
- A. Document Description**
- Date:** Undated
- "Setting the Record Straight"**
- B. File Origin**
- Individual:** Cliff Sloan
- Office:** Counsel's Office
-
- 68. Bates #Z000316-Z000318**
- A. Document Description**
- Date:** Undated
- Correction of Record**
- B. File Origin**
- Individual:** Cliff Sloan
- Office:** Counsel's Office

69. Bates #Z000319

A. Document Description

Date: Undated

"Washington Times: False Statements or Rehashes"

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

70. Bates #Z000320-Z000322

A. Document Description

Date: 7/20

Chronology

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

71. Bates #Z000323-Z000324

A. Document Description

Date: 12/22

Draft Re: Inconsistencies In Recent News Reports

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

72. Bates #Z000325-Z000326

A. Document Description

Date: Undated

"Setting the Record Straight"

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

73. Bates #Z000327-Z000329

A. Document Description

Date: Undated

Correction of Record

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

74. Bates #Z000330

A. Document Description

Date: Undated

"Washington Times: False Statements or Rehashes"

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

75. Bates #Z000331

A. Document Description

Date: Undated

Talking Points

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

76. Bates #Z000332-Z000339

A. Document Description

Date: Undated

Miscellaneous handwritten notes and drafts

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

77. Bates #Z000340-Z000355

A. Document Description

Date: 7/22/93

Draft Notes of Meeting

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

78. Bates #Z000356-Z000363

A. Document Description

Date: 7/22

Handwritten notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

79. Bates #Z000364-Z000377

A. Document Description

Date: Undated

Handwritten notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

80. Bates #Z000378-Z000380

A. Document Description

Date: Undated

Handwritten notes

B. File Origin

Individual: Cliff Sloan

Office: Counsel's Office

81. Bates #Z000381

A. Document Description

Date: Undated

Statement

B. File Origin

Individual: Chris Cerf

Office: Office of Administration

82. Bates #Z000382

A. Document Description

Date: 7/28/93

Draft Proposed Statement

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

83. Bates #Z000383

A. Document Description

Date: 1/5/94

Statement of Senior Advisor to President Bruce Lindsey

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

84. Bates #Z000384

A. Document Description

Date: 7/27/93

Letter to Jim Hamilton from Mr. Nussbaum

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

85. Bates #Z000385

A. Document Description

Date: 7/27/93

Letter to Jim Hamilton from Mr. Nussbaum

B. File Origin

Individual: Marlene MacDonald

Office: Counsel's Office

86. Bates #Z000386-Z000387

A. Document Description

Date: 5/26/94

Memorandum for File

B. File Origin

Individual: Thomas Castleton

Office: Counsel's Office

Explanation for Partial Printing of White House "Z" Documents

On June 21, 1994, the Senate passed Resolution 229 requiring the Committee on Banking, Housing, and Urban Affairs to conduct hearings, beginning no later than July 29, 1994, into whether "improper conduct" occurred regarding: (a) communications between officials of the White House and the Department of the Treasury and the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association; (b) the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster; and (c) the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death.

As an initial step in its investigation, the Committee sent a letter to the White House on June 22, 1994 requesting documents relevant to the substantive issues enumerated in S.Res. 229. The White House responded to the Committee's June 22, 1994 letter on July 1, 1994. Included in its response were several documents related to the handling of documents in Mr. Foster's office at the time of his death.

Senate Resolution 229 encouraged the Committee, to the extent practicable, to coordinate its activities with the investigation of the Office of Independent Counsel. Consistent with this directive, the Committee deferred its investigation into the handling of documents in Mr. Foster's office and held no hearings on this subject. In an effort to continue to coordinate the Committee's activities with the investigation of the Independent Counsel, at this time the Committee is not publishing the following documents produced by the White House:

Z 000001 - Z 000010
Z 000027 - Z 000095
Z 000115 - Z 000145
Z 000158 - Z 000163
Z 000177 - Z 000183
Z 000196 - Z 000202
Z 000294 - Z 000387

X000001

REDACTED

① DKK to all staffers
Dan Goldberg - for ops
Mike Long - Trues
Steve Harris

REDACTED

X0000002

12

X000003

REDACTED

Poten
Dill
Swiss

Stay going around that
POTUS ~~the~~ Kennedy called
ALT to ask for back
on Whitewater P.A. said
OK to line ALT's refused

X000004

703 ② Qs - Henry RT copy & testimony
 try to make offender of asking about ~~Q~~
 fresh Conf - cost 2. 6 hours is little more
 RTA oversight B2 Aitman

REDACTED

X000005

UNITED STATES SENATE

101st CONGRESS

X000007

DATE:

3/3/94

94 MAR 3 PM 2:45

TIME:

TO:

John Podesta

Tel No:

Fax No:

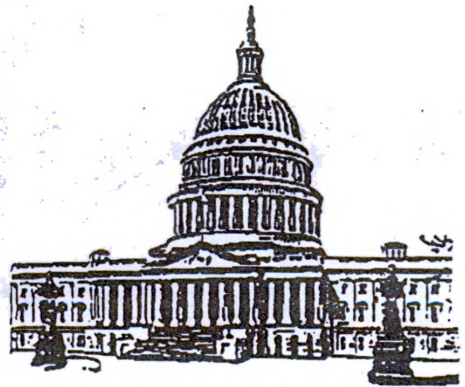
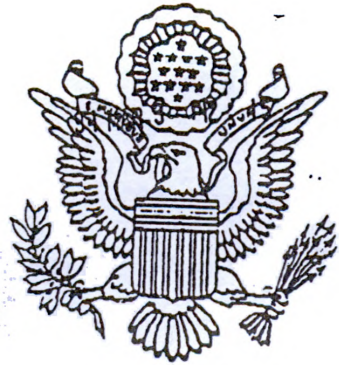
456-2215

Loc:

FROM:

Secretary for the Majority
 United States Senate
 S-109 The Capitol
 (202) 224-3735

Total Pages (including cover)

4

Remarks:

CC1 ckesWilliamsGeorgeMarshallBar N. ETS

X000008

United States Senate

WASHINGTON, DC 20510

March 2, 1994

The Honorable George J. Mitchell
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

We are writing to inform you that we will object to any agreement seeking consent to proceed to the nomination of Ricki R. Tigert, President Clinton's nominee to chair the Federal Deposit Insurance Corporation, until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and Loan.

As you know, the Acting Chief Executive Officer of the RTC, Roger Altman, recently disclosed that he sought a meeting with White House officials to give them a "heads-up" on the RTC's investigation. Needless to say, such a meeting is highly improper and raises very real questions about Mr. Altman's impartiality and the alleged independence of the investigation. Specifically, why were Harold Ickes and Margaret Williams present, in addition to White House Counsel Bernard Nussbaum? According to the Washington Post, Mr. Ickes the Deputy Chief of Staff, is responsible for Whitewater "damage control". Ms. Williams, Chief of Staff for Mrs. Clinton, had previously participated with Mr. Nussbaum in searching Vincent Foster's office and sending all or some of the materials to David Kendall of Williams and Connally who is representing the President and Mrs. Clinton.

We believe public hearings are required to explore these and other questions involving the attendance of political operatives at the White House in briefings by the head of a supposedly independent agency on matters that have nothing to do with the Executive Office of the President.

We regret having to delay the Senate's consideration of Ms. Tigert's nomination. Nevertheless, the American people deserve to have confidence that the RTC conducts its important business in an independent and impartial fashion. A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting.

Sincerely,

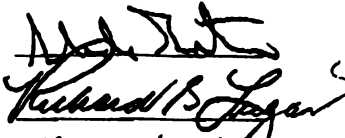
Alfonse D'Amato
[Signature]


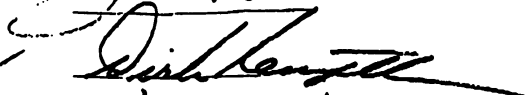

John Dole
[Signature]

X000009

<u>Phil Jones</u>	<u>W. S. Jones</u>
<u>John King</u>	<u>James Holman</u>
<u>Sam E. King</u>	<u>Ben Nicks</u>
<u>Went. Lott</u>	<u>Phil M. Lott</u>
<u>Don Lott</u>	<u>Don Lott</u>
<u>Ernest Nash</u>	<u>Don Nash Shumway</u>
<u>Samuel R. Nash</u>	<u>Thos. L. Shumway</u>
<u>Al. M. Nash</u>	<u>Ed. L. Shumway</u>
<u>Wm. F. Shumway</u>	<u>Frank Brown</u>
<u>Bill Bond</u>	<u>Frank H.</u>
<u>Wm. Stevens</u>	<u>Larry Linder</u>
<u>Frank Fairclough</u>	<u>Brian Rott</u>
<u>Bob Packwood</u>	<u>Wm. L. Lott</u>
<u>John S. Lott</u>	<u>Wm. L. Lott</u>
<u>RICK T. Lott</u>	<u>Wm. L. Lott</u>
<u>John H. Lott</u>	<u>Wm. L. Lott</u>
<u>Jim Jeffers</u>	<u>Wm. L. Lott</u>
	<u>Wm. L. Lott</u>

X000010


Richard B. Lujan
Bob Smith
Wendell


John Warner

Dick Lugar

Kay Bailey Hutchison

cc: The Honorable Donald Riegle, Jr.

X300011

THE WHITE HOUSE
WASHINGTON

March 1, 1994

MEMORANDUM FOR FILE

FROM: JOHN D. PODESTA
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY

W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--TRANSCRIPT OF SENATE BANKING COMMITTEE
HEARING

Attached please find the transcript of the testimony portion of the hearing before the Senate Banking Committee last Thursday, February 24, 1994.

The opening statements will not be available until the Committee releases the transcript.

W.N.E.

X000012

Copyright 1994 Federal Information Systems Corporation
Federal News Service

FEBRUARY 24, 1994, THURSDAY

SECTION: IN THE NEWS

LENGTH: 26366 words

HEADLINE: HEARING OF THE SENATE BANKING COMMITTEE

SUBJECT:

RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD SEMIANNUAL
REPORT CHAIRED BY: SENATOR DONALD RIEGLE (D-MI)

WITNESSES:

LLOYD BENTSEN, SECRETARY OF THE TREASURY

ROGER ALTMAN, INTERIM CEO, RESOLUTION TRUST CORPORATION

ACCOMPANIED BY:

ALAN GREENSPAN, CHAIRMAN, FEDERAL RESERVE BOARD

ANDREW HOVE, ACTING CHAIRMAN, FEDERAL INSURANCE DEPOSIT

CORPORATION JONATHAN FIECHTER, ACTING DIRECTOR, OFFICE OF THRIFT

SUPERVISION DIETRA FORD, EXECUTIVE DIRECTOR, THRIFT DEPOSITOR

PROTECTION BOARD 538 DIRKSEN SENATE OFFICE BUILDING

WASHINGTON, DC

BODY:

SEC. BENTSEN: Mr. Chairman, members of the committee, I have the Oversight Board members with me here -- Mr. Alan Greenspan, chairman of board of the Federal Reserve; Roger Altman, who's the interim CEO of the RTC. I've got Jonathan Fiechter, who's the acting director of the Office of Thrift Supervision; Andrew Hove, who's the acting chairman of the Federal Deposit Insurance Corporation. Also accompanying us is Dietra Ford, who's the executive director of the Oversight Board.

And I have a longer version for the record, but I'd like to summarize it, particularly with the lateness of the hour, if I might.

SEN. RIEGLE: We'll make your full report a part of the record, and we'd like your summary.

SEN. BENTSEN: Before I begin, and listening to the partisan exchange, let me thank the members of this committee for their bipartisan support last year, in the last session, to obtain the funding to finish the RTC job. I'm quite appreciative of that.

Let me tell you something you don't hear very often. We're not here to ask for more money. The funding -- (applause, laughter) -- the funding provided through the RTC Completion Act ought to be sufficient. In fact, they tell me this is the first time that the Oversight Board has been before you that it wasn't asking for additional money and funding. And I'm just very pleased to be able to inherit that honor.

X000013

I'm also happy to report that few S&Ls are failing, and 99 percent of private-sector thrifts are well or adequately capitalized. OVERSIGHT Let me review some of the numbers for you. Since the RTC was created in 1989, it's taken over 743 failed institutions and it's closed or sold 680 of them. In the process it protected nearly 23 million deposit accounts with an average balance of \$9,000. RTC made good on the government's guarantee of deposit insurance to millions of Americans nationwide. And, I might add, it did it with a minimum of disruption. A lot of the customers didn't even know that the RTC had taken over their S&L. The RTC also undertook the greatest liquidation in history, so far disposing of \$393 billion in assets for about 90 percent of their book value. Frankly, I couldn't believe that one. I made them go back and check it again for me. The RTC sold since its inception nearly 80,000 units as affordable housing. So at least tens of thousands of lower-income families have benefitted as this problem is being solved.

Now, crime is at the top of our agenda these days. We talk about violent crimes. Well, this scandal had criminals -- had white collar criminals. More than 1,500 persons were charged with major crimes involving S&Ls. Nearly 1,250 were convicted. And of those sentenced, more than 75 percent went to prison. And RTC has pursued several recoveries from wrong-doers with all involved agencies collecting nearly \$2 billion.

Mr. Chairman, when this administration took office the total cost of resolving the S&L problem was estimated at between \$100 and \$150 billion. When I testified just last March, we thought as much as 45 billion in additional funding would be needed. That was on top of the nearly 87 billion already appropriated.

A lot of people agreed with us. The Congressional Budget Office estimated 50 billion. The General Accounting Office had us around that level. And so did the House and the Senate budget committees. As RTC funding legislation moved through the Congress last year, constantly improving economic conditions resulted in record earnings for the S&L and the banking industries. By mid-November after lengthy deliberations in both houses, the funding bill provided \$18.3 billion, and that brought the total amount that's provided by Congress for the clean-up to \$105 billion, a figure on the low end of the estimate when this administration took office.

And I know the results could have been different -- easily. Depositors could have lost all their savings. Loss to the government could have been far greater, resolution of the problem could have taken much longer. But to the credit of a great many people, and they're seated in this committee, in addition, the problem is near resolution.

I'd like to give you some -- and I'd like to give some credit to the management of the RTC. And I think we'd sure better credit the economy. Deficit reduction has helped interest rates to fall. We've taken steps to increase the availability of credit, tackling unnecessary regulations and report requirements that discourage lenders from making loans to small business. And we'll continue to propose changes that will result in greater credit availability and efficiencies in the banking industry. This is why we want to sell a number of issues, including passage of the community development financial institutions legislation, which includes a balanced reduction and regulatory reform. I'll be before this committee next week with specifics on the

X000014

administration's proposal to reform and simplify the regulatory structure for depository institutions. Our proposal not only will eliminate unnecessary regulatory expenses which could result in the availability of greater credit, but as importantly, it can help avoid new crisis by putting a stop to inconsistent and confused regulation. But we'll talk more about that next week. But the point I want to make on deficit reduction is that the market responded, the economy responded. Housing starts and home sales are up, and that's sure good news when you're the RTC and you're trying to dispose of property. I can't help think back what a dramatic difference interest rates make. I used to chair a savings and loan. Sure glad I sold it when I came to the Senate. (Laughing.) But I'll tell you, not smart, just lucky! But I'll tell you -- (laughter). But I'll tell you, when you've got your mortgages at one rate and all the sudden long-term interest rates go substantially above that, you've got yourself a real problem in an S&L. And when you've got the government saying we'll guarantee the first 100,000, and you've got a small, new S&L, and then they have Wall Street bundle up hundreds of billions and send it to a little S&L. We saw that thing happen in Vernon, Texas. A good example of that. And then you see the others who are honestly trying to compete and what a hold it puts on them. Fortunately, we're seeing things go the other way with this substantial reduction in interest rates.

And I want to say to you, Senator Bennett, I've seen some of what you're talking about, too, where sometimes they were overzealous. And that balance is in part the concerns of what Senator Boxer has for those that have been ill-used and guilty of malfeasance. But lower interest rates and increased credit activity have brought about increased earnings for all types of financial institutions. Many S&Ls that may have been at risk are now making profits. But you and I know we can't predict what's going to happen between now and '95 when the RTC goes out of business. Nobody foresaw the floods and the earthquakes, and they had their economic consequences. We're not done yet.

Through '95, RTC must continue to protect depositors. They must dispose of some very hard-to-sell assets. And it must ensure its operations run effectively. It must work toward an orderly transition of its responsibilities to the FDIC. And it must never lose sight of its mandates to provide affordable housing and maximum minority participation, including implementation of provisions of the RTC Completion Act.

I've urged the RTC to work aggressively on the issue of minority participation. It's imperative that minority- and women-owned businesses have an ample opportunity to win contracts, to purchase assets and to acquire failed thrifts. In fact, the RTC is taking special care to meet the requirements of the completion act to provide preferences to minority institutions while applying the least-cost test.

Let me be more specific on some of those things I mentioned. The RTC has begun resolve 63 insolvent institutions now operating in conservatorship, which about 2.3 million deposit accounts. Some additional institutions may be transferred this year. If so, the RTC will make good on the government's guarantee to those insured depositors and any others who might yet fall under its jurisdiction.

Insofar as the remaining inventory of nearly 64 billion assets -- \$64 billion in assets, these, as

X000015

you said earlier, Mr. Chairman, are the most hard-to-sell properties that are left: real property and non-performing mortgages. While the improved economy helps sales, the potential loss to the taxpayers could be reduced if these assets are managed and sold efficiently. The RTC is working on improving its marketing and sales strategies and is seeking creative, yet sound techniques to maximize returns.

To fulfill its remaining mission, the RTC will benefit from good managers. Jack Ryan of OTS was appointed deputy CEO. Ellen Kukla (sp) of the OTS has been appointed general counsel. And Tom Horton has been promoted to acting senior vice president for asset management and sales. And I can tell you today that the administration expects to submit its nomination for a permanent chief executive shortly.

I thank Roger Altman for the service that he has done as the interim CEO. His term expires the end of March, and we hope by then to have a candidate. In line with the RTC Completion Act, Jack Ryan will serve as the interim CEO between the time Mr. Altman's term expires and the permanent CEO is confirmed. The Oversight Board will also make some appointments to the audit committee, which will be in operation soon.

I've asked Frank Raines (sp), vice chairman of Fannie Mae, to chair that one, and to serve as members we asked Jonathan Fiktar (sp) of OTS, Robert Larsen (sp), vice chairman of the Taubman (ph) Company and a former member of the Oversight Board. Mr. Larsen (sp) has also been renominated to serve on the Oversight Board, and I hope you'll be able to approve his nomination soon. The RTC will close down on December 31, 1995, one year earlier than originally thought, and planning for that is well underway. I expect the new management to work with the people at the FDIC in a cooperative way to carry out the transition of the RTC to the FDIC.

This past year the Oversight Board has also strengthened our staff reviews. I was being reminded of my testimony of last year and the recommendations and the improvements that we sought to bring about. We have done a number of them. We haven't completed them all. We're obviously still working at it, and we're scrutinizing some.

For instance, our staff has been monitoring the RTC's efforts to improve its contracting systems and its oversight. A review is being conducted to make sure policies are applied uniformly to all contractors and that contract oversight procedures provide effective review of performance. Another example: The staff has focused on the RTC's financial operating plan, its operating budget and all its borrowing activity, and our advisory boards are taking hard looks at the policies governing asset sales. Late last year, Ira Hall of IBM USA was named chairperson of the National Advisory Board, bringing considerable financial expertise and private sector expertise to that process.

These boards meet regularly at sites nationwide to discuss progress and to hear testimony from witnesses on how these regulations and procedures affect different parts of the country. The RTC listens to their advice, and they have been instrumental in advancing affordable housing opportunities. Our advisory board structure will change this year.

X000016

The Completion Act created a new affordable housing authority board to replace the National Housing Advisory Board. That new board will be made up of nine members, including the secretary of HUD. They will be providing advice on affordable housing programs, and how to merge RTC programs with the FDIC programs after the shutdown, and we're looking forward to working with them. Now, last year at this hearing, as I said, I announced those ten goals insofar as improving or reforming RTC management -- things like putting in place a system to ensure prompt follow-up on findings of the inspector general and the General Accounting Office, strengthening the contracting system and oversight of its private sector contractors, appointing a chief financial officer. The RTC Completion Act mandated and expanded on those reform, and RTC is moving to meet the standards that Congress determined and set.

I'm pleased with the results, and in a minute, I'd like Roger Altman to discuss them with you one by one. I hope you especially note what we've done on opportunities for minority- and women-owned businesses and in strengthening our internal accounting and administrative control systems. I personally believe that these programs are an important part of RTC duties and that this is an area it must continue to focus on to ensure legislative mandates are carried out. And Mr. Chairman, let me end on this. I believe that the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns that you folks in the Congress raised, concerns by the GAO and by the oversight board. You bet there've been a lot of problems, but the organization has been relatively free from partisan conflict. Republicans and Democrats alike have been committed to fulfilling the government's obligations to protect depositors at the least cost to the taxpayers. In '94 we'll keep working at that one, and looking to '95, well, I believe the RTC will be more than happy to be out of business. I sure will be happy. Thank you. Now let me turn it over to Mr. Altman.

SEN. RIEGLE: Mr. Altman, we'd like to hear from you now.

MR. ALTMAN: Thank you, Mr. Chairman. I, too, have a longer statement which, with your permission --

SEN. RIEGLE: Without objection.

MR. ALTMAN: -- that I hope would be entered into the Record, and I'll summarize it here. This is probably the final time I will appear before the Congress in any RTC capacity. Under the terms of the Vacancy Act, my appointment would expire on March 30. There are limited circumstances under which that could be extended, but I don't believe they will apply. As Secretary Bentsen said, it's our intention to nominate a permanent chief executive as soon as possible.

Last year we chose I think a fine candidate, Stanley Tate (sp). He withdrew, which was not at our urging, and I believe he would have done a good job. I also want to join with Secretary Bentsen in thanking the entire committee for its bipartisan efforts to secure funding through the completion act passed late last year.

I'd also like to note that the RTC has taken special efforts to be responsive relative to the

X000017

California earthquake. Foreclosures in those effective areas have been delayed, home owners are being helped to avoid delinquencies on mortgages held by the RTC, and we notified FEMA of 54 multifamily units and 47 single family residences that can be made available for temporary housing. Now, on to the status report.

Mr. Chairman, the S&L collapse required the biggest financial rescue probably in world history. Including money spent by the FSLIC beginning in 1988 it's expected to cost the American taxpayers the staggering sum of about \$150 billion. To put that into perspective, at today's budget levels that's equivalent to about 45 years of Head Start, about nine years of Aid to Families with Dependent Children. And at a time when we all struggle to finance federal support of vital activities from national security to education, these are sobering comparisons. I'm sure all of use would agree on a bipartisan basis to make every effort to ensure that such a fiasco is never repeated. When we inherited responsibility for this agency, it was not in sound condition. It was one of the largest contracting organizations of all time. But it had poor contracting procedures. It was selling assets in massive blocs, denying local investors a shot at local properties which they knew best. And despite being larger than almost any American financial institution in the private sector, any bank or any securities firm, it had no full-time chief financial officer, no permanent general counsel, and it had no business plan. So we determined to concentrate on repairing the organization and when Secretary Bentsen first testified before this committee, almost exactly a year ago, he outlined a series of management reforms to which we committed ourselves, and I'd like to very quickly just review some of those. A full-fledged review of all 21 of them is appended to my statement.

Contracting. We found that the agency's contract award procedures had often been violated in the past, and our first action there was to mandate compliance. Some of the compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them. Obviously, in the event of a compliance problem, the employee then had little incentive to draw attention to it. So the Office of Contracts has been reorganized into two separate units; one for contract solicitation and award, and another for contract administration, to avoid conflict, and the scope of contracting oversight has been substantially expanded. Among other things, the staff there has been more than doubled, and reviews of nearly 500 outstanding contracts were undertaken last year.

Next, audits. A new reporting system has been implemented to ensure that management responds to the concerns raised by auditors. And that system now tracks and updates the status of all inspector general, GAO and internal RTC findings and recommendations. And I'm pleased to say that the RTC today is current in following up on almost all GAO and OIG findings. **Business plan.** We completed a comprehensive business plan. We provided copies of that to this committee. It is a highly detailed and, I think, objectively speaking, good piece of work. It's intended to be a living document and we're going to update it regularly as conditions warrant.

Chief financial officer. Donna Cunningham, our chief financial officer, has been on board for about eight months. She's taken that helm very ably, as reflected in a series of improvements in the internal controls in the organization.

X000018

The professional liability section. This has been a particularly troubled area of RTC operations. There have been complaints from both sides of the spectrum, as the comments already here today illustrate; complaints that the RTC was unfairly pursuing former S&L directors who had no real roles in those organizations and, on the other side, complaints that the RTC was not sufficiently zealous in pursuing the real crooks.

As GAO recognized in its mid-'93 report, the primary problems have involved inadequate staffing and an overall lack of experienced attorneys and the temporary nature of the RTC has made it particularly difficult from a recruiting point of view. But we have worked hard to increase the size and the training of the staff in this area. We currently have the highest total of attorneys on board in the agency's history. Moreover, senior RTC and FDIC officials are planning to merge the RTC unit here, the PLS unit, with its counterpart in the FDIC, recognizing that the FDIC is a source of experienced attorneys in this area.

I also want to say that effective prosecution of PLS claims continues to be one of the RTC's highest priorities.

Secretary Bentsen referred to our having formed an audit committee and appointed its members. We have also established a joint coordinating committee with the FDIC for purposes of planning the transition or portions of the RTC back into the FDIC by the end of '95.

I'd like to make a special set of comments about expanded opportunities for minorities and women. That's been one of our highest priorities, as Secretary Bentsen said. First of all, we elevated the minority and women's program to the divisional level, put the head of it on the executive committee reporting directly to the CEO. We took action to expand the number of minority- and women-owned businesses receiving RTC contract solicitations. And there are now more than 1,100 of them in our database.

Let me say a couple of words about the record. On a cumulative basis since inception of the \$3.7 billion awarded in nonlegal fees, \$800 million have been awarded to minority- and women-owned businesses, 21 percent. Take a look at last year. We paid nonlegal fees of \$500 million. Minority- and women-owned businesses received 31 percent of those. We also encouraged efforts to encourage the use of minority- and women-owned law firms on the legal side, as far as legal fees are concerned. Last year, such firms received \$54 million, or 13 percent, of all legal fees from us, a big increase over the '92 level. And within the category of minority- and women-owned law firms, minority-owned law firms received \$36 million, far above the \$23 million of a year before. I think the entire RTC is quite proud at the sharply increased levels of minority and women's participation in all of the fee-generating activities of the agency, and details on that are also appended to my statement. Turning briefly to operations and financial issues, Secretary Bentsen cited a series of statistics relative to the amounts of institutions which have been resolved since inception. To me the most important statistic is \$9,000. That's the average balance in institutions which have been resolved. And for those who think this has been a bailout of the rich and famous, I think that's a pretty telling number.

X000019

We have 63 institutions under conservatorship today, \$18 billion of deposits. Now that the Completion Act is law, we're in the process of marketing these remaining conservatorships. We think these 63 will be resolved, Mr. Chairman, by the summer of this year, and it should cost \$9 billion to \$11 billion to do that.

On the asset sale side, we exceeded the targets we initially set last year. Book value reductions, \$63 billion; cash proceeds, 76 percent of that. That's a recovery rate below previous years because now we're down to poorer-quality assets, hard-to-sell assets. For this year, '94, we expected to reduce the book value of our inventory by \$43 billion, cash proceeds \$29 billion, projected recovery rate, 66 percent.

Now, on this asset sales side, one of things we did was to put in place a small investor program because, if I've heard anything in this past year in this capacity, it was that local investors were not -- did not have a shot at local properties which they knew best. So we took steps to ensure that assets would be available for sale individually to small investors with moderate levels of capital. Under this program, individual offerings of real estate properties have been emphasized. Underscore "individual." Auctions and sealed-bid sales have become more frequent and geographically focused. Smaller loan pools are being offered to allow buyers to purchase smaller, more geographically segmented groups of loans. And I'm pleased to say that at the most recent non-performing loan auction, in August last year, a third of the winners were new buyers who had not participated before, and the new bidders, overall bidders were for the most part smaller companies with a much higher preference for small loan pools and were most interested in buying geographically-focused loan packages located in their own areas.

Affordable housing -- Secretary Bentsen noted this -- since inception we've sold over 77,000 units, for a total of \$1.2 billion. The average annual income of households purchasing in that program has been about \$24,000, which, by the way, is 61 percent of the national median family income. Finally, Mr. Chairman, the issue of whistle-blowing.

As was noted earlier, last September this committee held oversight hearings where a variety of allegations were made, including retaliation against whistle-blowers.

Now, let me emphasize in the strongest terms, we support protections for whistle-blowers and have taken several actions to address those allegations. I issued a memorandum on October 4th to all RTC employees strongly reiterating our policy of prohibiting retaliation against whistle-blowers. We established an employee ombudsman program to augment the efforts of the inspector general in gathering all types of employee allegations. That ombudsman reports directly to the CEO on a weekly basis, and I think that program is working pretty well, because as of February 15th we'd received 116 inquiries, 96 of which had been closed and 20 of which were still pending.

We also had conversations in person and by telephone with six of the individuals who testified here before this committee. And during these interviews we solicited comments, feedback, and suggestions from them on how best to remedy the problems which they raised. And a number of those interviews were insightful and have been taken into account in our

X000020

efforts to remedy some of the management problems at the RTC. And I just want to underscore how seriously we have taken these allegations and that hundreds of hours have been spent working to understand and resolve them.

In closing, the Completion Act requires the RTC to terminate on December 31st, 1995. We will make that, there is no question that we will make that, and I think it will be a happy day for all concerned, especially the American taxpayer. Thank you.

SEN. RIEGLE: Thank you very much. We're going to now proceed with the questions, and we'll go with the normal five-minute time periods.

Chairman Greenspan, let me start with you. The Federal Reserve, of course, has raised interest rates earlier this month, and you just indicated publicly again that further increases are likely. And we know in the past that rising interest rates have had the effect of causing significant problems for thrifts. Now, obviously, the amount is highly relevant. But my question to you would be what effect are these higher interest rates likely to have on the RTC and, for that matter, on the future health of the thrift industry, which is still trying to work its way back?

MR. GREENSPAN: Mr. Chairman, I think you raise a very important question, because one of the lessons of this whole experience has been that we have -- we've put into place in the early post-war years an institution which was a specialized institution, one which could not function in a period of significant inflationary imbalances, an institution which had long-term assets and short-term liabilities. And, as the secretary indicated, when interest rates generally go up that institution is pressed as, indeed, we saw in an extraordinary sense in the period 1979-1980.

One of the things that is very important that we not allow to happen again is that extraordinary type of inflationary imbalance which was so destructive to those types of institutions. To be sure, savings and loans as a consequence of that have restructured their balance to a significant extent and the maturity mismatch is not of the size that it was previously.

Nonetheless, should interest rates rise significantly, then I think it does put those institutions in a very difficult position. It's been the concern of the Federal Reserve that we endeavor to fend off any such types of inflationary instabilities, and the actions that we took -- we took on February 4th, and the general discussion which I outlined to the House Banking Committee's subcommittee in trying to comprehend the type of problems that may be out there, were put forward precisely to prevent the types of difficulties which so debilitated the savings and loans.

To date, the effects on these institutions, of course, have been minimal, and we don't expect to see any particular problems emerge on that, but I would like to call -- ask my colleague, Jon Fiechter, what he sees, he's looking at these institutions in a much more detailed way than I.

X000021

MR. FIECHTER: I would echo what Chairman Greenspan said. One -- well, first, clearly a major risk in the thrift industry, given the nature of the business, is interest rates, but a real difference between the thrift today versus the thrift of the late '70s that ran into so much difficulty when the -- there was the rate (spike ?) in the early '80s, is that restructuring both of assets and liabilities, there are a lot of thrifts now that won't hold fixed rate mortgages any longer because they went through the early '80s. Also, as a consequence of (rate Q ?), institutions are able to much better manage their liabilities. As you know, Mr. Chairman, as a consequence of FDICIA, OTS has spent a lot of time on interest rate risk. We have a fairly extensive model, and in anticipation of a question such as this, I asked the staff based on the information the thrifts now provide what would be the effect of a 200-basis-point increase in interest rates if it were to happen as a shock -- sort of an across-the-board increase, but I don't think we're talking about that type of change. Only ten institutions would fail their current capital requirements.

None of them would go below 2 percent capital, however. And while it's a very uncertain world we live in, the analysis that we've done has suggested that at least in the numbers that we're talking about today, the thrift industry is in a much better position to handle rate increases going forward.

SEN. RIEGLE: I think that's an important response because I think it shows as well that in re-engineering, through FIRREA and then FDICIA, the arrangements that the general strategy is working. Now, if we get overtaken by, you know, events that were to drive interest rates above 200 basis points then we're into a different zone. But let's hope we're not going to deal with that. Chairman Greenspan, let me ask you one other question. This issue has obviously gotten a lot of attention here this morning. Are you satisfied with the way the Madison Guaranty issue has been handled by the RTC?

MR. GREENSPAN: The oversight board has, as far as I'm concerned, had no relationship with the Madison issue because that is a special case which is handled by the RTC directly. And I must say, I have not followed it in any manner which would enable me to address the question in a useful manner for you. SEN. RIEGLE: Senator D'Amato?

SEN. ALFONSE D'AMATO (R-NY): Thank you, Mr. Chairman. Mr. Hove, on August 10th, 1989, there was a letter written to Mr. John O'Donnell by a Ken K. Schenck (sp). He's a credit specialist. I don't know whether you've seen this letter in your reviews of this whole matter, but just let me read you the last paragraph.

"In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in the day-to-day operations. We are making this information available in detail to Mr. Hubbell." Now listen to this sentence: "To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging, however, I would like someone with a wider scope of authority to review the situation and possibly eliminate this conflict." Here's a credit specialist who's telling you what the real world is about. He was there.

Now, let me go on. In the report released by the FDIC -- eight pages of what I think is the

X000022

most incredible whitewash of Whitewatergate that I've seen. This is incredible -- incredible. And I've spoken to you just briefly before and I told you what I'm going to ask you. Page six, the bottom: "In addition, we have found no evidence that the firm had a close relationship with the S&L which might call into question its independence."

I mean, I have to tell you, given the information that your people were reporting back to Mr. O'Donnell, FDIC S&L project area coordinator, August 10th, 1989, given this incredible -- I'd say the FDIC makes an assertion that the Rose Law Firm did not maintain a close relationship with Madison Guaranty. That's incredulous in light of the fact that they had a monthly retainer with them for 15 months for several years earlier. I mean, how do you come to this conclusion?

Now let me ask you one other thing. Is it true that no documents were reviewed as part of the FDIC's internal review which was conducted by your law department? Is that true?

MR. HOVE: Let me respond to your question in the order that you gave them. You first talked about Mr. Hubbell and his relationship with the suit -- with the Frost accounting firm.

SEN. D'AMATO: Have you seen this memo?

MR. HOVE: I have not seen that memo.

SEN. D'AMATO: Let's have staff give a copy of this memo to Mr. Hove, please.

MR. HOVE: Let me respond to that.

SEN. D'AMATO: Would you like to look at that last paragraph and let me know whether or not your people, in conducting this review have seen this? It goes back to 1989. And the person who sends it says it would be naive to think that Mr. Hubbell would not pass this information on to his family.

MR. HOVE: But let me respond by saying that even if he had the issue between Mr. Ward, who is Mr. Hubbell's father-in-law, and the Madison Guaranty had been already decided, and Mr. Ward had a judgment at that time against Madison. That case was on appeal, and therefore, any information that Mr. Hubbell could obtain, even if he would obtain it, and give it to his father-in-law would not be admissible, would not be in the appeal process, even if he had had the information to give to him.

SEN. D'AMATO: Mr. Hove, did you ask you, did read page six, the bottom of your report? Because we don't have much time. So I'm going to -- it says, "We find no evidence that the firm had a close relationship with the S&L." Do you really believe that to be the case? Do you really believe that a monthly retainer that Hillary Rodham Clinton had did not establish a close relationship? Are you really suggesting that there was none?

MR. HOVE: Her relationship --

X000023

SEN. D'AMATO: Is that credible in light of what you know? MR. HOVE: Her relationship with Madison was on an issue that was in a state agency and not with the federal government. It was not with the FDIC. And our case was not against Madison. Our case was against the Frost Law Firm -- or over the Frost accounting firm.

In addition, we find no evidence that the firm had a close relationship with the S&L, which might call into question its independence. I mean, are you serious? I mean, that is a conclusion that was made. Let me tell you, it was made by your legal department. Let's go into something else. As part of last year's RTC Act, we have an inspector general that was created in the FDIC. Was the FDIC inspector general involved in this review?

MR. FIECHTER: No, sir. The review was started at your request, if you recall. I had indicated to you in my confirmation hearing that we were undergoing a review by our legal division as to what was the policy, the conflict policy that may be in effect between the Rose law firm and the FDIC in the lawsuit that Rose was doing for the FDIC against the Frost accounting firm. SEN. D'AMATO: Let me ask you this. Do you plan to ask the inspector general's office to analyze the procedures used by the FDIC legal staff in conducting this internal review and in essence to review this matter?

MR. FIECHTER: I would do that if the committee requested that. SEN. D'AMATO: Well, I'm requesting it, and I would suggest that you didn't need -- you wouldn't need the committee to ask you to do this. I'd suggest to you that it's your job to do it. I'd suggest to you that when you have such obvious areas of conflict in this report, when you're saying that there was no close relationship, when you're suggesting that Webb Hubbell would not and was not in the position to give any information to his father-in-law, that is incredulous. And if you don't have an inspector general looking to something like this, then what do you have him for? And what do you have? You have staff people who are going to make -- who make this kind of determination?

Now, I have to tell you you will be doing yourself and the FDIC, I think, a great, great damage if you just think that you're going to let it rest on this eight pages of sophomoric, legalistic mumble jumble that doesn't hold water. And I've just looked at this report. I've seen some occasion to see it in the newspaper. This is the first time I've had an opportunity to review it personally this morning, and it's shockingly inept.

Now, question. Do you intend, not by way of this committee instructing you, to put this matter, and don't you think it's appropriate that it be submitted to the inspector general? Yes or no?

MR. FIECHTER: Senator, we've been reviewing this to review our procedures, to review our procedures with conflicts, with conflicts not only with the Rose law firm but every law firm that we deal with. And our procedure is to deal not only with the actual conflicts but also to deal with the appearance of conflicts. And in this case had we done that, had we dealt with the appearance of conflicts, it is likely that the appearance would have been different -- the conclusion may have been different. But Senator, this has been several years ago. At that time we had many cases coming in to us as a result of the savings and loan failures, and the conflict, under the rules that we were dealing with at that time, did not present any conflict of interest from the Rose law firm suing the Frost accounting firm.

X000024

SEN. D'AMATO: It's what we're doing today. Today you're saying there may be a conflict back then because they didn't have clear rules spelled out. Today you're saying there may be a conflict back then because they didn't have clear rules spelled out. Now let me tell you whether it smells today -- and it smelled then -- I don't want to get into this legalese that maybe -- I want to know if you're going to ask the inspector general to review this matter. That's a question.

MR. HOVE: I will do that if committee requests it.

SEN. D'AMATO: Well, Mr. Chairman, I would at this point in time move that we ask that this matter be reviewed by the inspector general. Now this is not going to interfere with any federal prosecution that's taking place, but it's a question of ascertaining whether or not we're getting the facts. It's a question of whether or not legal counsel has analyzed all the documents. I don't know -- I read in one news account that says that no documents were received as part of the FDIC's internal review. I don't know whether that's true or not, but that's certainly something I intend to pursue.

SEN. RIEGLE: Yeah, let me just respond to your question because the time is up and I want to stay within these time periods or we'll -- we won't be able to move any at all here in an efficient way.

Let me take your request under review. I'm not sure but what a request from a single senator may be sufficient to -- in asking for an inspector general review. I don't know without sort of looking at our past practices and precedents, but let us research that question.

SEN. D'AMATO: Let me thank you for the manner in which you've handled it, but I have to tell you something. I'm wondering why when I asked you a question, yes or no, would you undertake this -- and Mr. Hove, before you answered, the fellow behind you with the glasses who has got a lot of hair I wish I had, you know, came up and told you what to say. Now, can I ask what is your title and what is your responsibility?

MR. : The acting general counsel.

SEN. D'AMATO: You're the acting general counsel. Well, you know, sir, whether or not you're going to ask, it seems to me for this to be reviewed is a matter if you see that the propriety of this report, the integrity, the correctness of it can be substantiated. And it would seem to me that you'd want to do that.

MR. HOVE: Well, let --

SEN. D'AMATO: It would seem to me that without counsel coming to you and saying whether -- you know, you can wriggle out by saying that the committee has to ask. And I appreciate the chairman's response, I really do.

But I just want to make that observation, Mr. Hove. I find your response totally unacceptable.

X000025

MR. HOVE: Mr. Chairman?

SEN. RIEGLE: We'll let -- I want to move ahead to Senator Kerry, who is next, and if you want to make a response, certainly --

MR. HOVE: Yes, I would like to, and first of all, all the documents, everything that we have discovered is available to the special counsel, and we will make that available to the special counsel. I will commit to you that I will ask the inspector general to undertake an investigation.

SEN. D'AMATO: Thank you. Thank you very much. And I think you have done the administration a service, yourself, the FDIC, and I applaud you for that. Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Kerry?

SEN. KERRY: Mr. Hove, you were originally appointed to your position by President Bush, weren't you?

MR. : That's correct.

SEN. KERRY: So you're a holdover from the Bush administration then. There's no special affiliation you have with President Clinton, is that correct? MR. : That's correct.

SEN. KERRY: I think it's a fair issue always as to what the level of review is, as to any institution, if it takes place. And I've certainly shared a public expression of concern about what the inspector generals have done or not done. But I would like to see, if it's going to be done, as to Madison, I really want to see it done as to Columbia and as to some of the others. I just think we ought to cover the board here.

Secondly, I want to point out the distinction here which we keep missing. And one of my colleagues earlier said if this were President Reagan who did this and it was Silverado and so forth, we'd be screaming. Those were sitting presidents who made sitting decisions regarding a policy at that moment in time that cost the taxpayers a lot of money. There is no sitting presidential decision here, there is no issue of presidential policy here. There is no issue of taxpayers being cost money by an action taken by the president of the United States at this time. This happened in 1982 and 1986, before they became president. Now, an individual died and there's an investigation into the death of that individual and what may or may not happened is a fair question with respect to the death. And that's being investigated by the first special prosecutor of an opposing party that I can think of in my public memory in public office that's been appointed. That is the clear distinction here. And it is a very real distinction. No taxpayer money, no public issue of policy, no decision of a sitting president of the United States with respect to what this committee has oversight on and is here for today.

The question is legitimate: what took place, were there relationships previously -- these are

X000026

important as to all these banks. And it is fair for the special prosecutor to proceed on that, and it is even more important that this committee guarantee down the road that we investigate everything. I'm not sitting here saying something may not have taken place. In point of fact, there may be some indication that some folks outside of the White House may have some questions to answer. But there is no evidence whatsoever with respect to policy or taxpayer money or any decision made by the president of the United States that warrants this kind of inquiry.

Now, let me ask you, if I may, Mr. Altman, and Mr. Secretary, perhaps you can share with me, because one of our concerns is not just Madison but a whole lot of other institutions. I think 42 percent of the total losses fall in Texas alone. And there's a serious question about professional liability with respect to those institutions. I'd like to know, to date, what is the total amount of money recovered to date from directors or officers of these institutions nationally?

MR. ALTMAN(?): \$640 million, senator.

SEN. KERRY: Six hundred and forty million?

MR. ALTMAN(?): From institutions -- from institutions.

SEN. KERRY: And that's recovered through liability cases. MR. ALTMAN(?): Those are criminally related recoveries.

SEN. KERRY: What about civil? Is there any at this point? MR. ALTMAN(?): In addition to that figure I gave you, about \$745 million from civil-related recoveries.

SEN. KERRY: So we have in fact recovered to date a billion three, is that correct? It's not insignificant.

Can you break down where that has taken place? It's my understanding 42 percent of the total cost of bailout was Texas. Is there a corresponding recovery rate or any kind of rate you could give us as to where the most money came from?

MR. ALTMAN(?): I don't have information with me, senator, on state-by-state breakouts, and I don't know whether --

SEN. KERRY: Would it be possible just to get that at some point in time? MR. ALTMAN: We'll be happy to do our best to do so.

SEN. KERRY: I think it would be good to have a sense of that. It's my understanding that you were going to take a look at this question of sort of why the recovery rate may or may not have been low. Have you been able to draw any conclusions as to that? I mean, one of the things I heard is that a lot of the attorneys who came on believing that they were going to be able to engage in recovery grew so frustrated at not being able to do so in the early years that they left. I don't know if that's legitimate or if you've found other reasons, but could you

X000027

share with the committee what, if anything, you may have discovered with respect to the recovery process?

MR. ALTMAN: As I said in my opening comments, the entire PLS area has been a troubled one, and there have been complaints from both ends of the spectrum about overzealousness and about inadequate pursuit. And we've had as GAO in its report noted a high degree of turnover and difficulty retaining -- recruiting and retaining experienced attorneys because of the temporary nature of the RTC. After all, here we are with less than two years to go.

SEN. KERRY: Currently that's true. What about in eighty -- what about in the early stage -- late -- late '80s?

MR. ALTMAN: Well, of course, the RTC has always been intended to be a temporary agency, and I'd just refer you to the GAO report which concluded that that was a particular problem. And as I've mentioned, we've made a series of efforts to strengthen that, the most important of which is to hire a very good and very strong general counsel.

When we inherited responsibility for the RTC, despite its being such a large institution -- as I said, larger than almost any private financial institution in the country -- it didn't have a full-time general counsel. And that's a very important step we took. We've also got more PLS attorneys on board today than ever before in the history of the organization. So we're making every effort to try to fulfill all the responsibilities we have in this area. I don't think there's any way to know, senator -- or if there is, I don't know -- whether -- or what percentage of recoveries that have been made compared to the potential that an ideal effort, a perfect effort would have obtained. I don't -- I don't know the answer to that.

SEN. KERRY: Okay. My time is up. Thank you very much, Mr. Chairman.

SEN. RIEGLE: Thank you much, Senator Kerry.
Senator Bond is next.

SEN. CHRISTOPHER S. BOND (R-MO): Thank you very much, Mr. Chairman. Mr. Altman, are there special measures taken when in the resolution of a failed thrift you find it to be affiliated with a high profile individual? Someone in government, for example?

MR. ALTMAN: The procedures, Senator, which the RTC follows are intended to be identical in each case, and they certainly have been identical in the case discussed this morning.

SEN. BOND: After you discovered that the president of the United States's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?

MR. ALTMAN: When the possibility of a criminal referral was brought to me, I took one step, and that was to instruct all the relevant RTC personnel to handle any judgments about criminal referral in the same exact fashion that they would be handled in any other PLS matter, no deviation whatsoever. As far as documents are concerned, the same thing.

X000028

SEN. BOND: You instructed them to handle the documents in the same way? MR.

ALTMAN: That's correct.

SEN. BOND: Were there any instructions received by you or to, your knowledge, anyone in your agency from the Department of Justice, the White House or special counsel with respect to the retention of documents?

MR. ALTMAN: To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that. With regard to Justice and the special counsel, I'm advised there have been conversations, the essence of which is that each party reminding the other not to take steps or release information which could jeopardize either party's investigation.

SEN. BOND: Given the facts I set out in my opening statement, we are concerned about whether all the documents are there, can you assure the committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners or business partners?

MR. ALTMAN: I have no knowledge whatsoever of any such effort. SEN. BOND: Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?

MR. ALTMAN: No.

SEN. BOND: You are absolutely sure that --

MR. ALTMAN: No, your question was: Has anybody indicated to me. SEN. BOND: All right.

MR. ALTMAN: The answer is no.

SEN. BOND: Would you inquire of your records management agency whether they have either, A, been given instructions about the handling of documents from somebody outside or if they have found any evidence of missing documents or find that there are documents apparently missing? If you would inquire of that and advise us if you do find that there is such information?

SEN. RIEGLE: I think the stenographer should note that he's nodding in the affirmative.

MR. HOVE: Yes.

SEN. BOND: Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice and copies of the second referral on October '93?

X000029

MR. HOVE: Senator, we're not in a position to release any documents that could have a negative impact on the investigation. I don't think you would want us to do that. And documents of that type that you're talking about fall into that category.

SEN. BOND: Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987. What steps have been taken by your agency to recover those files or to ascertain where those files might exist?

MR. HOVE: I have no knowledge of that matter.

SEN. BOND: Have you heard of the allegation?

MR. HOVE: Actually, no.

SEN. BOND: Mr. Altman, I know there's many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We don't know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and if so, to take appropriate steps to recover such documents. Finally, where are the documents being kept, and have they been thoroughly catalogued?

MR. ALTMAN (?): Well, I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain -- would help it reach a conclusion on a litigation decision, in this or any other matter, it makes a maximum effort to obtain.

SEN. BOND: But that -- you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton? MR. HOVE (?): None whatsoever.

SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BARBARA BOXER (D-CA): Thank you, Mr. Chairman. I want to pick up on where Senator D'Amato left off with Mr. Howe.

Mr. Howe, as a Bush appointee, you were familiar, obviously, with the laws in those days regarding conflicts of interest, and you said that at that time there had to be a direct conflict of interest. And the appearance of a conflict of interest now is considered important, but at that time, that's not the way things were done. Is that correct?

MR. HOWE: That is correct, Senator.

SEN. BOXER: So the law was strengthened, and now you have to look at the appearance of a conflict of interest.

X000030

MR. HOWE: It's not a law, it's a procedure that we have at the FDIC. SEN. BOXER: All right.

MR. HOWE: And at that time, we were looking only at the conflict of interest. Now we look not only at the conflict but also at the appearance of any conflict. SEN. BOXER: Right. Well, Mr. Chairman, I think this is a very important point. And what I would like to suggest is this; my colleague, Senator D'Amato, is very interested in this one particular S&L, which as I understand it, on the list of failures is the 194th largest in the country. I'm also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closures. For example, there were, as I understand it, 14 S&L failures that cost the taxpayers more than one billion [dollars] each. Of these mega failures, six were located in Texas, two in California, two in Arizona, one in New Jersey, one New York, one Florida and one Pennsylvania. And I would like to ask you -- and since I think the chairman said a senator can make a request -- that in these mega failures, these six, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and have a -- and at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that because I do have a big concern about the scams that were going on at that time.

MR. HOWE: Senator, many of these cases probably were the RTC cases and not the FDIC. The reason that we had this case was that we inherited the FSLIC cases in late 1988 or early 1989. This one came to us at a window of time prior to RTC's being created. So I think that your request might better be directed toward the RTC.

SEN. BOXER: Well then I will make that request to the RTC and ask that we have that report. Would I make that to Mr. Altman or Secretary Bentsen? Mr. Chairman, who do you think would be the appropriate party?

SEN. RIEGLE: Well, they both are hearing it, so --

SEN. BOXER: All right. Well, I will assume that will be done because, as I say, what I find most incredible is that there's this outrage directed at one particular situation, and it's so obvious why. You know, Mr. Chairman, I just want to say this, if I might -- I'll get back. I just have to say this, if I might. We all bring our experiences to the table, to our committees, to our work. And as I sat through this, I had the sense that this reminded me of something, the dynamics here, and it comes back to my being a mother and my experience in raising two kids, and when they wanted something, they made a pretty strong case.

And if they really wanted something, they stamped their feet. And if I gave them what they wanted, I expected them to be happy because I acceded to their request. And if they kept on stamping their feet, I'd tell them, "You're unreasonable." And if they kept it up, I'd take further action. But I think what I see going on here is that there was a demand for the best and most impartial person to look at a situation that obviously had a lot of political overtones, and in an attempt to handle it fairly, that request was granted, and we don't know the end result.

But what I see happening here, Mr. Chairman, is that people are still stamping their feet as if

X000031

nothing's been done. Something very important has been done. A lease has been taken on offices for something like four years. Eight attorneys are looking at this whole situation. Every question that's been asked by my colleagues is being looked at, not by a Democratic prosecutor, as Senator Kerry has pointed out, but by a Republican prosecutor, and someone who I believe has the faith of the American people, if not some of the senators here today, who seem to want to interfere in that investigation.

SEN. RIEGLE: Senator Boxer, I might just say, you may or may not have seen this in this morning's Washington Post, but there have been 25 FBI agents assigned to work with the special counsel, in addition to that legal staff that you cite.

SEN. BOXER: Yes. And, Mr. Chairman, I have to say that gives me great comfort. As much as I respect my colleagues' skill at questioning and badgering, I'd rather have this matter handled by someone who is so well-respected, cannot be accused of partisanship, as my colleagues on the Republican side here could be or I could be or Senator Kerry could be. So let's stop stamping our feet, and let's say this is good, that this investigation is going forward. And I really do have faith that we will find out what the problems were. And we don't know where it all will lead, but I don't think that turning this hearing into a browbeating of witnesses here does any good here at all.

I have some written questions I would like to submit, but I would have to say overall I am pleased with the report that we're getting. It seems to me we're moving along, perhaps, hopefully, under budget, moving forward with women and minorities and the things that many of us care about, and going after these crooks. Thank you.

SEN. RIEGLE: Do you want to say something? Otherwise I'm going here. MR. ALTMAN (?): No, no. I just wanted to note to Senator Boxer that we would respond to that question that you earlier asked.

SEN. BOXER: Thank you. I really look forward to seeing that for those six institutions. Thank you.

SEN. RIEGLE: Thank you.
Senator Bennett.

SEC. BENTSEN: Mr. Chairman, if I might --

SEN. RIEGLE: Uh, excuse me.

SEC. BENTSEN: (Off mike) -- my responsibilities as secretary of the treasury to deal in oversight, and I'm specifically precluded from intervening in individual cases. That's the responsibility of the RTC.

SEN. BOXER: But the RTC will do that. Thank you.

SEN. RIEGLE: Senator Bennett.

X000032

SEN. ROBERT F. BENNETT (R-UT): Thank you, Mr. Chairman. I agree with Senator Boxer: we all bring our personal experiences to this. I will try to stop stamping my feet. (Laughter.) I think that's an appropriate response, but --

SEN. BOXER: You've just been tapping your toe. (Laughter.)

SEN. BENNETT: I've just been tapping my toe. I must, however, out of my own experience share with you the number of times that I as a loyal Republican went to the White House in the Nixon administration and kept saying "You have got to get this out. You have got to find out who is behind this and tell the truth." And I kept getting told "This is a third-rate burglary that nobody cares about." I'm sure on a list of breaking and entering -- (laughs) -- this would have -- the Watergate breaking and entering would have been considered very, very minor. And people kept saying to me, "No, no, it'll all blow over." Well, it was members of your party, Senator Boxer, who kept stamping their feet and kept the thing up. A special prosecutor was appointed who in my recollection was a Democrat. I think Mr. Cox did not have very good Republican credentials when he was appointed to that circumstance.

SEN. KERRY: He was a Republican. One of the good ones from Massachusetts, but he was a Republican. (Laughter.)

SEN. BENNETT: He was a Republican? Well, I knew his law partner. He was a Democrat. We need not beat this further, but I do hope everybody understands that when there is an allegation of wrong-doing the smartest thing any politician can do is get all the facts out on the table. I've tried to do that. When I've been accused of making mistakes, I've discovered that the very best thing you can do politically is not try to cover it up, and that's the only advice I give my friends in this circumstance, having lived through the Watergate thing on the other side of it.

SEN. KERRY (?): Can I just take 30 seconds to say to my colleague that's exactly what we did. Senator Moynihan, national television, Senator Bradley, Senator Bob Kerrey, myself and others said appoint a special prosecutor, and indeed, the White House turned around and did it while the president was in Europe.

SEN. BENNETT: I understand all that, but I also understand that the stamping of the feet that went on prior to that probably had something to do with that decision. I don't think it was entirely sound public policy on the minds of the people on the other side.

Let's get back to the RTC if I can. I do want you to refer carefully to the article that I put in my opening statement. You've talked a great deal about minorities and women, and I yield to no one in my desire to see to it that there is fairness done.

The allegations that were made by the gentleman from Denver, however, is that there is serious reverse discrimination going on in the RTC, and that anyone who does not fall in that category cannot get a job and cannot get a promotion. And if that is true, that is something I think you should pay attention to. So I would ask you to review that.

X000033

Now, make reference to continuing sales, and again, this is a personal circumstance. I've had a number of people come to me in Utah and say here is a marvelous investment opportunity to pick up at fire sale prices properties that can be enormously valuable. I have decided finally to divorce myself from having to make any investment decisions, and I put all of my assets in a managed trust and trust the trustees of that trust to make those kinds of decisions. But I said to them I cannot personally invest in this because I sit on the Banking Committee and it's involved in oversight of the RTC and these are RTC properties.

But I did, prior to creating the managed trust for my assets, go through the process of looking at them, and as a businessman, I can say you really are moving them very rapidly because it struck me that some of the prices were indeed unduly low and that the RTC could in fact have gotten a better price almost as quickly if not just as quickly as they were getting for some of these properties. Do you have a sense on that issue? I'm not accusing you of anything, I simply want you to talk about it.

MR. ALTMAN: Well, first of all, Senator, we have a statutory responsibility to maximize recovery for the taxpayer, so we must pursue sale techniques which respond to that goal. Second, all RTC assets, for practical purposes, are sold at auction, auction of one kind or another. So rather by definition, the market -- the price which the market establishes on that day is the price. It's always possible to look back on any transaction and say you should have done it later or you should have done it earlier, but fundamentally all of our sales are on an auction-style basis. I think the only other point I would make is that we're now in -- we now -- our inventory today is of the harder-to-sell variety as we're getting down toward the end. So our recovery rates, as I mentioned in my statement, are lower. I think last year we recovered at a rate of 76 percent of book value, and this year it'll be in the mid sixties. The character --

SEN. BENNETT: Let me just go back to your earlier statement. I understand what you're saying here, and I don't want to be argumentative about it. One instance, we were told -- or I was told that while it was technically an auction, the RTC had determined the price and that, if I would simply submit a bid for this price, I would be guaranteed to get it, that the RTC would not entertain any other requests. And I turned it down, as I say, for the reasons I've described, although I'll say to my colleagues, the ethics committee told me I need not have done that. I could have made the investment. I decided to avoid the stamping of feet later on in some future campaign in Utah. I would not run the risk. But it was my understanding that the people who did ultimately pick up the property did it for the price that we were told was the price. And we were told, "Yes, this is technically an auction; there will be a sealed bid, but this is the sealed bid we want and if you submit it at that price we can guarantee that you will get it."

MR. ALTMAN: I'd like to make points. The first is -- that's not how it's supposed to work, and if it worked that way -- just taking your comments in their entirety -- it should not have. Second, the RTC does reserve the right to reject bids and to establish in effect reserve prices or floors. So, it isn't the case -- it isn't always the case that whatever the high bid is it's accepted. But, there should never be an auction where any such indication, any such knowledge is provided beforehand; if it was, it was a mistake and shouldn't have happened.

X000034

SEN. BENNETT: I'll just assume that it was a mistake in a particular circumstance, and I'm grateful to you for your response.

SEN. RIEGLE: Well, and perhaps a look could be taken at what may have been going on there, because that's not -- you know, let's not have it happen again. Senator Sarbanes was not given a chance, was not here in the sequence to give an opening statement and has asked to do so and I'm going to acknowledge that as I do with everyone. And then after he's done that, we'll start his time clock on questions. Senator Sarbanes.

SEN. PAUL SARBANES (D-MD): Mr. Chairman, I'll be brief. I don't want to impose on my colleagues, but I can't forego the opportunity with Chairman Greenspan here before us not to talk about interest rates just briefly, since I think they're so essentially involved with where the economy may be going. And I just want to -- I want to make a statement about that. I've met with the chairman from time to time, both privately and of course in public sessions, and I've raised with him the concern that a hike in short-term rates would raise long-term rates. The chairman's position has been, as I understand it, that when short-term rates go up long-term rates would initially rise but that within a few weeks or so they would settle back down to a level near where they had been when short-term rates were raised. We then contacted the Fed for the analysis that in effect was the underpinning for this statement. We've had difficulty getting that analysis, but it's finally been forthcoming. And as the Fed says, and I quote, the Fed staff, "As you have noted, short- and long-term rates do tend to move together." They then go on to make a rather subtle argument that to the extent that the Fed is ahead of the curve the response of long-term rates is less than when the Fed is moving too little too late, in responding to a build-up of inflationary pressure. So in a sense, they're shifting, as I understand it, the position that was asserted to me by the chairman.

On the morning of February 4th when the Federal Open Market Committee raised the Fed fund rates from 3 to 3-1/4 percent, the 30-year bond rate stood at 6.30 percent -- 6.30. Since that time, long-term rates have risen steadily. As of the close of business yesterday, the 30-year bond rate was 6.65 percent. Thus, since Fed funds were raised, long-term rates have risen by 35 basis points; in other words, more than the 25-basis-point increase in short-term rates. Now last summer at a hearing with Henry Kauffman (sp) and Paul Samuelson (sp), copies of which testimony were sent to the Fed and with a request that it be distributed to members of the Open Market Committee -- Henry Kauffman (sp) argued that raising short-term rates could lead to higher long-term rates; in other words, the contrary of this position that was asserted that if you take up short-term rates, you can bring down long-term rates. And I quote Kauffman (sp). "I also take issue with the assertion that a small increase in the Fed fund rate this summer would be welcome by the financial markets and would accordingly lead to a decline in bond yields. Perhaps. But equally likely is that the bond market would interpret such a rise in the federal funds rate as the first of a number of future increases, and market participants might easily react by pushing bond yields higher. Under that scenario, the rise in the federal funds rate could magnify inflationary expectations, precipitating a sell-off of bonds."

Now just today, Hobart Rowen, one of our nation's most perceptive economic commentators, has an article in the Washington Post headed, "The Fed Meddles," and I just want to quote

X000035

from it briefly. "As it has many times in the past, the Federal Reserve Board is taking the country down the wrong road by raising interest rates. It has violated the dictum, 'If it ain't broke, don't fix it,' and as a consequence, the smooth recovery from recession that has cheered business and consumers over the past year is being threatened. "Fed Chairman Alan Greenspan told the Joint Economic Committee in widely analyzed testimony January 31 that the central bank, which had allowed interest rates to fall to record lows, would not change policy to slow economic growth. But four days later, on February 4th, the Fed raised short-term interest rates by one-quarter of a point in a, quote, 'preemptive strike,' unquote, against future inflation. To make sure there was no doubt in the markets that the Fed had decided to interrupt the easy money pattern, Greenspan publicly announced the move. "In new testimony this week, Greenspan failed to justify the Fed's action. He admitted that there was no discernible inflation, that wages are not moving up, that there is virtually no fear the economy is growing fast enough to make overheating a danger."

Now, the whole problem here -- and I -- this is to close this statement, and then I have just a couple of questions to put to Mr. Altman. I won't take anywhere near my question time because I -- is all -- it's all encapsulated in this -- in this cartoon, which shows this truck moving down the road. It says "Economy". And the economy has been moving down the road, and we all want to see that. The driver here has got his hands up to his head in horror. He's slamming on the brakes. As you can see, "Brake. Screech," bringing this truck labeled "The Economy" to a halt. And the reason he's doing it is because out here in the middle of the street is a man labelled "Greenspan". (Laughter.) And he's bending over here. He's out in the middle of the road out in front of the truck, obviously forcing it to come to a screeching halt. He's bending over to pick up these papers here that say "Interest Rates." And he's saying, "Let's see, we'll just pick these up."

Now --

MR. GREENSPAN: You know, senator, I pulled a muscle in my back and I now just realize how I did it. (Laughter.)

SEN. SARBANES: Well, I'm glad we found the explanation for it, Mr. Chairman. SEN.

KERRY: You know, Mr. Chairman, if you say something really interesting now about interest rates you could functionally terminate this hearing and relieve us all. (Laughter.)

SEN. SARBANES: Mr. Chairman, I know that's not the focus of today's hearings, but I think this matter is of such importance. The Fed, of course, is urging the Congress to stay the course on fiscal policy. I happen to agree with that. I think we ought to stay within the constraints of the agreement that was reached last year, and I expect that we will. But by the same token, it's my own view that the Fed should have stayed the course on monetary policy, certainly until we had greater assurances that real growth was taking place in some lasting and permanent way and some evidence that one can look to that indicates that we're beginning to get some kind of inflationary problem. Now, Mr. Altman, I just want to put a couple of questions to you. Earlier you were questioned by one of my colleagues on the other side who went through a list of -- (laughs) -- sort of "Have you stopped beating your wife" type questions, I thought. And so let me try to turn it around and get -- I want to be sure.

X000036

Do I understand that the cases to which they're making such reference were handled in the same way that all other cases were handled -- in other words, according to regular procedures?

MR. ALTMAN: Senator, the instructions that I gave were that all procedures, normal procedures should be followed in this matter without any deviation. SEN. SARBANES: And to your knowledge, that's -- I mean, to the best of your knowledge that's the case. Is that correct?

MR. ALTMAN: Yes.

SEN. SARBANES: Mr. --

MR. ALTMAN: Of course, I'm commenting as to the handling of the case under my responsibility. I'm not making a comment about matters that I have no knowledge of of three or four years ago.

SEN. SARBANES: Oh, I understand that, but as I understood the questions that were put to you, it was with respect to your own responsibilities. I don't how you could be expected to assume the responsibilities of others, so to speak. Mr. Chairman, I just have one comment about the constant reference here to Madison and Whitewater and so forth. And that is that, you know, an independent counsel has now been selected. I read the transcript of his press conference with the Attorney General when it was announced. Actually, as I understand it, or as he said, he defined the scope of the investigation. In fact, he says, "I'm totally satisfied that I will have the independence and complete authority to do this job right." And then the resolution by which his jurisdiction is defined, this is Robert Fiske now I'm talking about; "This resolution has been deliberately drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today." And he then goes on to specify that.

Now, of course, I think Fiske is regarded highly. In fact, Senator D'Amato called him "a man of unflinching and uncompromising integrity. He's the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation." I don't differ with that evaluation, I say to my distinguished colleague from New York, from what I know about Mr. Fiske and what's been told to me about him. So I think that's an accurate evaluation of him. Now, the other point I want to address is, he was asked in that conference, "Do you think that a congressional hearing of any kind at this point might hamper your investigation?" This was a question put to Fiske by a -- at that press conference when he assumed his responsibilities. And this was his response, and I quote him -- this is now Robert Fiske I'm quoting, the independent counsel: "I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past, we can all see that that is not an easy relationship." End of quote.

And I just wanted to put that on the record, because I think it's very important to understand

X000037

that, you know, an independent counsel now has been selected. The independent counsel has been given a grant of authority -- actually, according to his own testimony, he defined, in effect, the grant of authority. I haven't quoted it, but the attorney general is very clear here in her statements that he has a full scope to proceed as he deems necessary and to call upon any resources that he thinks are advisable. And it seems to me that, you know, we've put the matter where it ought to be put.

Now, there was some delay in getting to that point. I understand that. But that's the point we are at now, and it seems to me that that is -- ought to be reassuring to the American people that this matter will be looked into thoroughly and comprehensively and that Mr. Fiske and his associates -- and he's now in the process of putting together, I understand, a rather large and first-rate staff -- will get to the bottom of this matter. And I think it's very important that that be put on the record.

I thank the chairman.

SEN. RIEGLE: Thank you, Senator Sarbanes.

I made reference earlier -- I'd just take one moment before calling on Senator Faircloth. I made reference earlier to the actual legal charter of independent Special Counsel Fiske which is published in the Federal Register on Friday, February 4th, and I've read it. And it's really quite a -- I just hold it up here, and we'll put it in the record so that it's there in the context of this discussion. But this is about as broad and as firm a legal mandate as anyone could have. And I notice here that under the Department of Justice the action to accord him that kind of operating latitude was in the form of a final rule. So this locks it in. I mean, this independent counsel, I think highly regarded across this board -- from Senator D'Amato's comments to others that have been made by other people who know him well -- has the authority to go anywhere he thinks it necessary to go. And I again make reference to that article today in The Washington Post, because he's obviously setting up subsidiary investigative efforts, where he's putting together teams to go down each and every issue so that there are no questions left at the end of his work. In any event, I urge my colleagues to take a look at this, because I think it is instructive. Senator Faircloth.

SEN. LAUCH FAIRCLOTH (R-NC): Thank you, Mr. Chairman. And I want to thank you for the manner in which you've conducted the hearing. It hasn't been easy. I had one or two quick one-liners, and then I had some questions. (Laughter.) One of them is in sympathy with Mr. Altman. I bought and sold many a piece of land in my life. I never bought one that somebody didn't tell me I paid way too much for it, and I've never sold one that somebody didn't come immediately and tell me I should have gotten a lot more. But I survived. MR.

ALTMAN: You probably did very well.

SEN. FAIRCLOTH: Chairman Greenspan, I think -- two things. If we get nothing else out of all of this conversation, I believe it will demonstrate to the American people, and maybe to the Congress as a whole, that we need to keep the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision and the FDIC as separate entities, and it's well spent money to have them separate by the taxpayers' money to keep it as it is and not be consolidating it into a political position. I hope that's it. As Senator Sarbanes mentioned on

X000038

your increase in interest rates and inflation, I have observed over the years that inflation is somewhat like Alzheimer's disease; you've had it three or four years before you find out you really have it. And inflation moves before we -- it goes underground a long time. So I think you're absolutely right in increasing rates in anticipation of what might happen. I have found that inflation -- a recession will scare you -- in business, a recession will scare you to death, but inflation will kill you. And I have a question for Mr. Hove.

Mr. Hove, it's my understanding that Webster Hubbell, in his current position as associate attorney general, and in his words, "chief operating officer" at the Justice Department, has formally recused himself from matters regarding Madison Guaranty. Would you agree with me that it would be improper for Mr. Hubbell to seek to involve himself in the FDIC investigation beyond what he was asked by the Legal Division? And if you will -- since that light is looking at me -- I'd like yes or no answers, if you would.

MR. HOVE: I think the issue of Mr. Hubbell recusing himself is an issue that Mr. Hubbell has to deal with.

SEN. FAIRCLOTH: Fine. Have you had any communication with Webster Hubbell concerning the Legal Division's report?

MR. HOVE: I have not.

SEN. FAIRCLOTH: Are you aware of any communication between Webster Hubbell and an FDIC official in the general counsel's office regarding Mr. Hubbell's role in the Legal Division's then-pending investigation and report? MR. HOVE: Yes, sir. Legal Division has had conversations with Mr. Hubbell. SEN. FAIRCLOTH: Are you aware of any communication between an official in the general counsel's office in Washington and the FDIC official in the Kansas City, Missouri field office regarding Webster Hubbell's role in the then-pending investigation and report?

MR. HOVE: No, I'm not aware of that.

SEN. FAIRCLOTH: Would you be willing to let the general counsel's office release their telephone records for the week of January the 24th through January the 31st?

MR. HOVE: Senator, we're willing to release any non-confidential information that would be generally available to the public. As you might know, many of these things would be privacy concerns and we would be concerned about releasing those without redacting some.

SEN. FAIRCLOTH: So you would not release them?

MR. HOVE: No, sir, we will release them, we will release any non-confidential --

SEN. FAIRCLOTH: All right, that's -- who decides whether it's confidential or not?

MR. HOVE: Well, does it include -- does it deal with privacy of the individual. SEN.

X000039

FAIRCLOTH: Well yes it does, but we need -- yeah, sure it does. That's what we want them for. (Laughter.) Will you?

MR. HOVE: We'll release anything that is publicly available, yes, sir. SEN. FAIRCLOTH: Well, it's not publicly available or we wouldn't be asking for it to be released. If it were in the want ad section, I'd have gone there to get it.

MR. HOVE: Yeah, we have log of everyone that we've contacted, everyone we've talked to on the phone, and we'll release that.

SEN. FAIRCLOTH: All right. Okay, that's what we need.

I see in the Wall Street Journal and the Chicago Tribune, and it's generally out, that you found no conflict of interest between Ms. Clinton and her work in the Dan Lassiter (sp) and First American Savings and Loan, that you find her completely innocent.

MR. HOVE: Senator, let me talk about that issue because that was not an FDIC issue, and that was not an investigation or a review that the FDIC has done. That was an issue that happened before FDIC ever became involved. That was an issue between the old FSLIC -- the old Federal Savings and Loan Insurance Corporation and the failed savings and loan, First American in Illinois. They had filed the suit against Lassiter (sp). They had settled that suit before FDIC ever became involved in that. It was an issue that had happened way before FDIC ever became involved in it.

We have not reviewed that. We have looked at --

SEN. FAIRCLOTH: May I ask one quick question?

MR. HOVE: Yes.

SEN. FAIRCLOTH: Who settled it? Ms. Clinton and Foster? Is that -- it was settled -- you say it was settled. It was settled by Ms. Clinton and Foster. MR. HOVE: I'm not sure that it was settled by Mrs. Clinton. Mrs. Clinton's involvement was to sign an amended complaint for Mr. Foster that amended the complaint from the savings and loan against Lassiter (sp). That was her only involvement in that case.

SEN. FAIRCLOTH: All right, go ahead. I'm sorry, I interrupted you. MR. HOVE: That case was settled over six years ago by the conservator. The conservator for that savings and loan had hired a law firm in Chicago. The law firm in Chicago subcontracted the Rose law firm to work on this case for them as the conservator. The lawsuit was settled before we ever got it, and normally these facts would not trigger an investigation for us, but because of the increasing public interest -- and if you choose, we will conduct an IG investigation to determine that -- but again, the records are scattered all over because it's the old FSLIC records and they were not compiled in any one location. So it's a very difficult issue. It -- there's no single repository of these records. And we'd be willing to assist your staff in locating any of these records that may be available and to make some determination as to what the involvement was.

X000040

SEN. FAIRCLOTH: So this clearing of Ms. Clinton in any involvement with the American Savings and Loan and Dan Lassiter (sp) was done by the FDIC, it was done by the --

MR. HOVE: We have not cleared it. The only contact we've had on the First American Savings and Loan and the Lassiter (sp) case was a press contact that came as a result of an article that appeared first in the Chicago Tribune, and we responded to that saying exactly what I've told you, that this was not an FDIC issue, that it was in fact a FSLIC issue that occurred before FDIC ever became involved in any FSLIC issue.

The issue was settled, the settlement was made before FDIC ever became involved in this issue.

SEN. FAIRCLOTH: All right, so -- but the -- would the statute run on it, could it be opened by the special counsel?

MR. : I haven't any idea. That's a question I guess I'd have to ask my attorney.

SEN. FAIRCLOTH: Ask him.

MR. : (Confers.) I don't know.

MR. : I have no idea either.

MR. : We don't have enough records at this stage to know -- SEN. FAIRCLOTH: Thank you.

SEN. RIEGLE: Although I'll repeat again, and you'll read it from this Federal Registry (sic): "The independent special counsel has two authorities. One authority is for criminal prosecutions. The other authority is to proceed with civil actions." Now, the civil authority doesn't relieve any other regulatory body of whatever civil action they might appropriately take. But the point is, the special counsel has the specific grant of authority to proceed down both tracks. And it's laid out four different times in this charter of responsibility, and it's a very important point.

SEN. D'AMATO: Will the chairman yield? Just on that point, because to be quite candid with you, until the chairman read the grant of authority, I was given to believe that the special counsel would confine himself to the criminal side. I'm not suggesting to you that the grant may not give him broader powers. I would think it would behoove us, and I'm not attempting to get the exact language determined now, but if we could not, send a letter from this committee and ascertain, indeed, will he undertake the review of various civil matters, such as the one brought up as it relates to this last matter that Senator Faircloth brought up, and there are some others. I think that would at least set the record straight and we might want to put that to him and, again, have our counsel work together to put forth the appropriate question. But I think we should determine, indeed, is that the case.

Secondly, I make a quick point, and I beg the indulgence of my colleagues, by stating, I think that if you notice, at least where I have been attempting to take this, and I think some of my

X000041

colleagues, we're attempting to ascertain what if anything did the RTC, did the FDIC, do in connection with these matters. That is not at variance with the charge of the special counsel. We are not, in attempting to find out what was done and what wasn't done, in any way disturbing his investigation. I think we have an absolute right to know what was done. We have an absolute right to know the appropriateness of the action, so --

SEN. BOXER: Can I have a point of procedure? Whose time are we on? I just was -- I've lost track.

SEN. D'AMATO: Well, I'm going to do it one way or the other.

SEN. BOXER: Well, I don't have any objection to your doing it. I'm just confused. Is this Mr. Faircloth's time that you're on? Or is this added time, so we can all get added time?

SEN. D'AMATO: I asked the chairman if he would indulge me so I could --

SEN. RIEGLE: He asked the indulgence of the chair and I'm going to let him finish his point.

SEN. BOXER: Okay, fine.

SEN. RIEGLE: And then we'll move to the next person here.

SEN. BOXER: I was just checking.

SEN. D'AMATO: So, again, this is not an attempt to do anything other than to see what has been done to date by those various agencies that have the collective and the individual responsibility to deal with these matters. That's one. And secondly, it would seem to me that it might clarify the issue -- certainly I was led to believe, and maybe incorrectly so, that the special counsel was not going to look into civil matters. I think it's important for us to ascertain that.

And so I put that to the chairman that possibly we review that matter. I'm not looking for an answer at this time --

SEN. RIEGLE: Well, I'm going to just -- I'm going to take a minute and just read it into the record because I don't want it to be --

SEN. D'AMATO: No --

SEN. RIEGLE: I know, but it's important, and the words are on paper, and this is the official charter. And I'm going to read from page 5221 of the Federal Registry of February the 4th of this year, and I'm going to just read three or four different lines here that appear in different places, and here's the first one: "The attorney general has appointed this independent counsel to investigate whether any individuals or entities have committed a violation of any federal law or civil law." And then it goes on in that vein. And then over on the next page it says again "... have committed a violation of any federal criminal or civil law relating to ..." And

X000042

then again it says "... any violation of any federal law or civil law." And it says it one more time further on down the line here.

So it's clear -- my interpretation of this is that this does not relieve any regulatory body of any proper actionable efforts that it should properly undertake and determine to undertake, but it says that the special counsel clearly has the authority to move down both tracks if in his judgment he should find that that is warranted. And it's a very important fact.

SEN. DOMENICI: Mr. Chairman --

SEN. RIEGLE: Senator Domenici, let me just say the time -- we're at the point now where either you or Senator Gramm will get to ask questions, and you -- you're both here, and I don't know if either of you have a -- one will follow the other, but will either of you have a time problem as to who goes first?

SEN. DOMENICI: Well, I just wanted to ask you with -- on that question on your charter interpretation there, or reading --

SEN. RIEGLE: It's not an interpretation, it's what -- it's the final rule that was laid down on the --

SEN. DOMENICI: Well, what is -- what is the special prosecutor supposed to do if he finds civil law violations?

SEN. RIEGLE: He has the full legal empowerment to take whatever actions he deems necessary -- and all the investigative and prosecutorial authority to do so. I mean, this is an absolute charter.

SEN. DOMENICI: We'll -- we'll -- thank you very much for that.

SEN. RIEGLE: You can take a look at it.

SEN. DOMENICI: Senator Gramm, I have a little bit of time, although I'm late for some events. But if you want to go, I'll let you go and I'll follow. It -- Will there be another one from the other side that has not inquired yet?

SEN. RIEGLE: No. You are the last two that have a chance to question, so --

SEN. DOMENICI: Well, go ahead. Could you keep it brief, senator? Short?

SEN. RIEGLE: -- and then we'll go back and forth, senator. SEN. : No.

SEN. DOMENICI: No? (Laughter.)

SEN. RIEGLE: Senator Gramm.

X000043

SEN. PHIL GRAMM (R-TX): You want to go ahead?

SEN. DOMENICI: No, you go. You got the time clock right there.

SEN. GRAMM: Let me begin. I've just got a simple question that I want to ask of most of the members of the panel, and let me just read it. Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the president, the first lady, or any of their representatives, including their legal counsel or any member of their White House staff, concerning Whitewater or the Madison Savings and Loan?

MR. ALTMAN: I've had one substantive contact with White House staff, and I want to tell you about it.

SEN. GRAMM: Okay, let me, if I may, just -- given that "yes" I'd like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

MR. ALTMAN: Right. First of all, I initiated it. About three weeks ago, Jean Hanson, who is Treasury's general counsel, and I requested a meeting with Mr. Nussbaum -- he's the White House counsel.

The purpose of that meeting was to describe the procedural reasons for the then impending February 28th deadline as far as the then statute of limitations was concerned. I'm sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims. And we explained the process which the RTC would follow in reaching a decision before that February 8th deadline, that it would be exactly identical to procedures used in any other cases, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim or whether there didn't. And in the event that the basis for a claim existed, then it would pursue either a tolling agreement, which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest, or it would file that claim in court. That was the whole conversation. I was asked one question. That was question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said I assumed so, went back -- (inaudible) -- and checked with the RTC general counsel. The answer was in due course. I said fine. That was it. I have not had any contact with the president of the United States or the first lady on any matter like this.

SEN. GRAMM: If I may, let me pose the same question to Mr. Hove. Have you or any member of your staff had any communication --

SEN. RIEGLE: Mr. Hove, let me just -- I don't know if you know. This question's being addressed to you.

SEN. GRAMM: Have you or any member of your staff had any communication with the president, with the first lady, with their representatives, including legal counsel, with members of their White House staff concerning Whitewater or Madison Savings and Loan?

X000044

MR. HOVE: Our director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared The Chicago Tribune regarding the First American issue. They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement.

SEN. GRAMM: So they were asking you to respond to the press statement? MR. HOVE: It was Mrs. Clinton's attorney.

SEN. GRAMM: Mrs. Clinton's attorney --

MR. HOVE: I'm sorry. It was Mrs. Clinton's attorney --

SEN. GRAMM: -- called you?

MR. HOVE: It was Mrs. Clinton's attorney that called the FDIC Office of Communication.

SEN. GRAMM: So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press --

MR. HOVE: No, no, that's not what he said.

SEN. GRAMM: Well, I'm asking the question.

MR. HOVE: Yeah. No, but that -- but --

SEN. GRAMM: I'm not trying to speak for you.
What did Mrs. Clinton's attorney ask you to do?

MR. HOVE: They asked did we have any statement, and we responded, no, we did not have a statement.

SEN. GRAMM: Would it be normal that someone's -- did this attorney work for the federal government?

MR. HOVE: No. This was Mrs. Clinton's attorney.

SEN. GRAMM: When did this call occur; do you know?

MR. HOVE: After the second article appeared in the Chicago Tribune, and I can't tell you the date of that. It's been in the last, what, two weeks or so? I don't know.

SEN. GRAMM: And you were asked if you had a response that you were going to put out on it; you said no.

MR. HOVE: That's correct. We responded to the first statement, the first article that appeared in the Chicago Tribune, pointed out the errors of that article, that it was not an FDIC matter,

X000045

exactly the same thing that I responded to Senator Faircloth.

SEN. GRAMM: And to the best of your knowledge, you've had no other communication, you and your staff have had no other communication with all the people that --

MR. HOVE: That's correct.

SEN. GRAMM: Let me pose the same question to Mr. Fiechter and to Ms. Ford.

MR. FIECHTER: To the best of my knowledge, I know I have and OTS staff has had no communication whatsoever with anyone from the White House about this or that list that you included in your question.

MS. FORD: No, the Oversight Board nor I have had any involvement in this matter.

SEN. GRAMM: Let me raise a second question, and it's a thing that I've tried to understand in looking at where we are and what we need to do to get on with finishing this matter. Part of the problem that we have had in the past with regard to congressional hearings and congressional involvement really has involved two things. One has been the granting of immunity by congressional panels for people who would testify. The other is that under the Constitution, the testimony of a member of Congress is a privileged matter that is given special treatment. In this case I'm not aware that anyone in holding a congressional hearing or looking into this matter would be talking about -- I don't know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress. We're not talking about a member of Congress, where there's special constitutional provisions. I'd like to just pose the question: What would be wrong with letting members of this committee that have oversight responsibility look at the records in this case or any other case where we have oversight responsibilities? Mr. Hove, let me pose that to you and Mr. Altman, and then I see my time is up and I'll stop.

MR. HOVE: Our position is that we will make access available, and we have, to Congressman Leach, to all information that is, again, non-confidential documents.

SEN. GRAMM: How would you define what is confidential?

MR. HOVE: Again, those that would -- (pause) -- those that would involve privacy information that would be non-germane to this issue.

SEN. GRAMM: And you would make that judgment?

MR. HOVE: Yes.

SEN. GRAMM: Mr. Altman?

MR. ALTMAN: First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred at the very beginning to documents he received last

X000046

evening, and I would have liked him to receive them earlier, but we only got the request last Friday.

But in terms of Congressman Leach, who has also received those documents, he has had them for some time -- if my memory serves, 6,500 pages -- the RTC has been asked not to make information about criminal referrals in the Madison matter public, and it's standard practice not to release information of that kind or any other which might compromise a criminal investigation. And of course, we're cooperating with the independent counsel to try to assure that we don't release any information which would jeopardize his investigation. And as I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should.

SEN. GRAMM: Mr. Chairman, if I could have your indulgence, I've got here a text of a newspaper article in Phoenix that contradicts something that Mr. Hove said, and I'm sure he doesn't want to let it stand. I've got a response, apparently after the second article, where the agency -- the FDIC did in fact make a statement. It says the agency said Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing federal regulation of savings and loans. I've got this if you would like to see it.

MR. HOVE: Was that after the second -- we made a comment -- we made a public comment after the first article appeared --

SEN. GRAMM: This is 2/16/94.

MR. HOVE: Okay, and I don't know when those articles appeared. SEN. RIEGLE: Why don't you take a look at it, and let's go to Senator Domenici and then --

SEN. GRAMM: (Aside) -- When did the other one occur, what's the date on the other one?

MR. HOVE: Senator, we commented after the first article appeared to correct any inaccuracies that was in the report. The involvement that Mrs. Clinton had in that case was, again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case. That involved two hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint. As far as we can determine from the records we have, that was the involvement that she had had, and that's what we released at the time.

SEN. GRAMM: Well, if you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, why they made it, it'd be fine. Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Domenici.

SEN. PETE V. DOMENICI (R-NM): Mr. Altman, Stanley Tate (sp) was nominated by President Clinton to head the RTC, and while preparing for that confirmation he was at the

X000047

RTC in a consulting capacity. That's all true, isn't it?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: When he withdrew his nomination, he attempted to release to the public materials he had prepared containing the RTC operations. Are you and the board familiar with the document that I refer to?

MR. ALTMAN: Generally, sir, yes.

SEN. DOMENICI: Why did the oversight board prevent Mr. Tate (sp) from releasing that document?

MR. ALTMAN: Well, first of all, it was released.

SEN. DOMENICI: Well, you released it -- when he left it was not released and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or my office, but that was December 23rd, 1993. Why was it not released when he wanted to release it?

MR. ALTMAN: Well, senator, my recollection is that it was released rather promptly. Maybe not the day after he submitted it, but as a federal employee -- consultant, the materials properly would be -- were reviewed by his superiors before being released. But I think the point is they were released in short order.

SEN. DOMENICI: Well, did the RTC or the oversight board alter, edit, or sanitize this document before releasing it? And let me say if not, why did Dietra Ford, oversight board executive director, send a memo -- and I have that -- dated November 30th to you about these materials which included the following sentence: "I'm forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided." Those last -- that last sentence is a quote. What was the disaster that Mrs. Ford was referring to? Was this a reference to Madison? If it wasn't, fine. If it was, I think maybe we ought to know about it.

MR. ALTMAN: Senator, you should ask Mrs. Ford that question.

SEN. KERRY (?): You may not like the answer, but --

SEN. DOMENICI: Well, I just got this letter, and it deserves an answer. If it's not what I want, that's fine. That's what we're here for.

MS. FORD: We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board. The deputy general counsel of the Oversight Board and I advised --

SEN. : Pull the microphone up.

X000048

MS. FORD: We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO, Mr. Altman, before they are released to the public and that he was a federal -- special federal government employment and, therefore, he was subject to the rules that apply in terms of ethics, the Office of Government Ethics, that applied to the release of documents which he obtained during his tenure as a federal government employee.

SEN. DOMENICI: Well, what's what your letter says.

MS. FORD: That's right.

SEN. DOMENICI: But what was the "disaster that we narrowly avoided"?

MS. FORD: It was my interpretation that, to release those documents before anyone in the Oversight Board staff, the attorneys involved, or -- who advise us, have a chance to look at them, was inappropriate. And that's my choice of words -- "disaster." I think it's inappropriate to release documents before we know what they contain.

SEN. DOMENICI: I thank you.

Let me quickly move to a couple of other ones if I might. Mr. Altman, I think you told Senator Bond that you would not make available any documents that, quote, "would have a negative impact on the legislation," closed quote.

MR. ALTMAN: No, I don't think so.

SEN. DOMENICI: No?

MR. ALTMAN: I said -- I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation.

SEN. DOMENICI: Well, this committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clarke. This committee explored in detail transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here. Why can't you release all of these documents for this kind of hearing?

MR. ALTMAN: Senator, we have had -- or I am advised we have had a couple of conversations with Mr. Fiske, the independent counsel. He has asked us not to release any documents that could jeopardize his investigation. I don't know why you would want us to do that, to jeopardize his investigation. We certainly don't want to.

SEN. DOMENICI: I don't want you to.

MR. ALTMAN: And we're respecting his request.

X000049

SEN. DOMENICI: But if the special prosecutor has no objection to the committee being provided copies of documents, can the committee then count on the RTC's full cooperation in providing them.

MR. ALTMAN: You should direct that question to Mr. Fiske.

SEN. DOMENICI: No? If he has no objection, then can we count on you to release them?

MR. ALTMAN: I think the answer is yes.

SEN. DOMENICI: Does the RTC have an inspector general?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: Has the inspector general investigated the conflict-of-interest allegations regarding the Rose firm?

MR. ALTMAN: I don't know the answer to that.

I'm nearly certain it's no because, as you know, it wasn't the RTC that ever had any retainer relationship or other relationship with the Rose firm.

SEN. DOMENICI: But you're kind of the natural successor to what went on there, and I believe -- I think when you took over you began some investigation of that. We'll show you that in a minute. But my question is, if the FDIC agreed to have its IG look into Madison, would there be any reason why you wouldn't?

MR. ALTMAN: I have no objection to the IG's looking into any matter that he sees fit to look into or that he's requested on an official basis to look into. That's what he's there for.

SEN. RIEGLE: Senator Domenici, I don't want to be arbitrary, but I do want to try to stay on the time clock if I can as we go back and forth, and we'll continue until everybody's had a chance to cover everything they want to cover today.

SEN. DOMENICI: Thank you very much, Mr. Chairman.

SEN. RIEGLE: Chairman Greenspan, I want to come back to the interest rate situation because we had an opportunity to talk the day that the Fed took its first step, after that was taken, and I'm concerned about the question of what has happened since and just your own expectations of what might happen, what has happened. You've made further public comments in a hearing recently. I'm just wondering, as you watch market reactions to the tightening move that the Fed made, are you seeing essentially what you expected or have you seen something that -- particularly in terms of the uptick on the long rates -- something that maybe you would not have expected? In other words, where are we now, and how do you read what seems to be taking place as a reaction to the Fed's policy adjustment?

MR. GREENSPAN: Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the

X000050

basis of what has historically tended to be the case, that the type of increase that we've had would initially lead to some small increase in long-term rates followed by some edging off. That's basically been the history, other things equal, and that's essentially what one endeavors to use so far as a forecast is concerned.

What occurred in the interim was, as I indicated to the subcommittee of the House the other day, is that there was a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising, and the first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey, which showed a significant increase in prices paid by manufacturers for the month -- I suspect it's early February. The point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4th move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated.

And to repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change. As I said then, my impression of how one should interpret that Philadelphia report is more an indication of a pick-up in economic activity because commodity prices tend to be reasonably good proxies for new orders and indeed I think that's what essentially that particular report was showing. It is not a particularly good forecaster of inflation. And as I said at the House committee, we seem to be lacking the financial tinder that usually is associated with inflation accelerating when you get a significant pick-up in economic activity.

I'm agnostic at this stage. I think it's too soon to make a judgment, but we will learn a good deal more as the data begin to come forward.

SEN. RIEGLE: Well, but as I listened carefully to what you were saying, it seems to me when you say you don't see the inflationary tinder and that you're sort of an agnostic, I mean, I gather you're saying you don't see, yet, a broad evidence of a build-up of inflationary pressure that really worries you. I mean, I -- or is that not a -- I mean, put it in your words, but I'm just --

MR. GREENSPAN: No, that is substantially correct. Look, the reason that we moved on February the 4th, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside. And when it became apparent that the adjustments that we thought would occur and in fact have been occurring in the balance sheets got to a point where the economy could start to regain its momentum and gain a degree of expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists. The issue is not, do we see inflationary pressures emerging, BUT what is the reason

X000051

why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures. So, it's the issue -- I would reverse the question, not do we see inflationary pressures, but what reason would we have, once the recovery seems well entrenched, as indeed I believe it is, would we wish to keep an excessively accommodative stance? That is not a statement which says we are setting inflationary pressures emerging; indeed, as I said in my prepared remarks to the House committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing we're sure at that point is we are very far advanced in the process, and history tells us that that type of policy which we engaged in much too often, is wholly inappropriate to maintaining long-term economic stability.

SEN. RIEGLE: Well, let me just say to you I find that a very important clarification and point that you've just made. And I think it puts this in a somewhat different light than some of the commentary, I think, has given to it because what I hear you saying is that you've -- you've had a monetary policy that has been overly accommodative in order to try to get sort of the engine going again and that you overcorrected in a sense --

MR. GREENSPAN: Deliberately.

SEN. RIEGLE: -- deliberately. And now that it has gotten the traction that it needs to have, as far as you can tell, you're taking back some of that overcorrection but not for reasons of the fact that you see this inflationary tinder building up here.

MR. GREENSPAN: Precisely. And, in fact, I've tried to make that point every time I've stated this, and I somehow don't seem to get it across as well as I think I would like to.

SEN. RIEGLE: Well, I think you got it across pretty well right now, and we've got a pretty good sized press table that I hope will have gotten it down even though it's 20 to two, which is sort of a late hour for us to all be meeting here -- (laughter). But I thank you for that. I think that's a very important distinction, and I think it's important for the economic system and the markets to understand what you've just said.
Senator D'Amato.

SEN. D'AMATO: Thank you, Mr. Chairman. Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up and -- as it relates to any meetings with White House staff or counsel. Mr. Altman, I think you said that you and a -- an official from Treasury sought out Mr. Nussbaum. Is that -- is that correct?

MR. ALTMAN: Yes, I did.

SEN. D'AMATO: Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel.

MR. ALTMAN: Solely to ensure --

SEN. D'AMATO: Solely to -- ?

X000052

MR. ALTMAN: Solely to be sure that he understood the legal and procedural framework within which the RTC was working. And if you recall, as I said at that time, it was a February 28th date which was the subject of major attention in the Congress and in the press. It's not uncommon of meetings of that type to take place. And I'd describe it as a "heads up" and a very stiff conversation.

SEN. D'AMATO: A "heads up". In what connection would that heads up be? You mean that the statute of limitations was running?

MR. ALTMAN: No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th.

SEN. D'AMATO: Was any representatives of the president or Mrs. Clinton or any legal counsel -- which I think would be appropriate -- speaking to the counsel for the RTC, or people handling this particular -- this particular matter? I mean, was there any legal representation going on? Was this -- you just called them? Did they have any representatives, any counsel who may have been meeting with staff people or talking to staff people?

MR. ALTMAN: I was accompanied by our general counsel, Treasury general counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the -- there at the time.

SEN. D'AMATO: Oh, Ickes is in it, huh?

Let me ask you this: Prior to this meeting, was there any representation -- was there any counsel that was being given representing the president's interest or Mrs. Clinton's interest or anyone else that you're aware of as it relates to the matter that you went to brief them on?

MR. ALTMAN: No, not to my knowledge. Nor were there any substantive conversations -- subsequent conversations.

SEN. D'AMATO: Did anyone request this meeting?

MR. ALTMAN: I requested the meeting.

SEN. D'AMATO: Was there any other meeting that may have been requested?

MR. ALTMAN: No.

SEN. D'AMATO: There was no other meeting that you are aware of that the White House counsel requested?

MR. ALTMAN: No.

SEN. D'AMATO: Or anyone else from the White House?

X000053

MR. ALTMAN: No.

SEN. D'AMATO: Mr. Ickes?

MR. ALTMAN: I had no subsequent -- I received no subsequent requests for meetings.

SEN. D'AMATO: Well, what about private counsel? Did private counsel -- I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel that was meeting with staff lawyers at some level?

MR. ALTMAN: Not to my knowledge, Senator.

SEN. D'AMATO: Ms. Ford, do you know of any?

MS. FORD: No, I've had no involvement.

SEN. D'AMATO: Let me turn to the RTC report which was dated February 8th, which we received last evening about 9:00 -- Resolution Trust Corporation -- and say to you that, in reviewing this document, I think it goes a little further -- does a little better job than the one that came out of FDIC. I found it interesting that in its conclusion on page five and six, in its summary before it reaches its disposition, it says, A, Rose represented Madison prior to its failure; B -- and I am not reading the whole sentence -- Rose represented the FDIC/RTC subsequent to the failure of Madison; C, Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC or the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell. And, by the way, I'm going to, Mr. Hove, read something to you that's quite illuminating. You better have your lawyers take a look at this. And when it gets all done doing that, it says, based on the factual conclusions in the RTC conflicts report -- it says we send it to counsel.

Now, I have to tell you that I am going to ask -- because you have no conclusion. It just says, "These are the facts; these are the facts, fellows. Now, you do with it what you want" and sends it to counsel -- general counsel. I'm going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the inspector general. And as you've indicated before, you certainly wouldn't say, "I don't see any -- how that would impede anybody or anything." But I certainly would feel more comfortable that it goes to the inspector general as opposed to the general counsel. And I think it would guarantee the integrity of the review, certainly in this senator's mind and I think in others.

MR. ALTMAN: Fine.

SEN. D'AMATO: I thank you very much. I see that my time has expired. I have another observation to make, and I'll do that after -- at the appropriate time.

SEN. RIEGLE: Senator Kerry?

X000054

SEN. KERRY: Well, let me ask my colleague, is that going to be the last -- I mean, or is there intention of colleagues to go a whole other round?

SEN. D'AMATO: I think some colleagues have some other questions, and they'll raise them whenever --

SEN. RIEGLE: I think maybe we're going to have one more go- around here with those that are left who want to do so. And then I think we're probably done here.

SEN. KERRY: It was my understanding that we were going to have another hearing here in 10 minutes, which I'm also supposed to participate in. I'm just curious what the plans of the chairman are. If my time could not -- I'm just --

SEN. RIEGLE: They have a different room that they're meeting in --

SEN. KERRY: All right. So that's --

SEN. RIEGLE: -- so that we won't run into a room conflict. But we are late in the day, and the witnesses have been here a long time. So my intention would be to finish up a round here where everybody gets another turn at bat.

SEN. KERRY: Well, maybe I could ask another -- just procedurally. I don't want to really use my time at this point. But it seems to me that maybe we could ask if anybody has any more questions to ask of the chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we're going to do is talk about another subject.

SEN. DOMENICI: I -- is my turn imminent here? Or do I have a long wait?

SEN. RIEGLE: Let me get my batting order here.

SEN. DOMENICI: Because I don't want to keep him a long time, but I wanted to --

SEN. RIEGLE: Actually, you follow Senator Bond, who will come after Senator Kerry. Then we'll come back to Senator Boxer. So actually there are --

SEN. : How long is your question? Maybe they would let you get that --

SEN. DOMENICI: I don't want -- I don't have a question of Mr. Greenspan. I just want to state for the record that, frankly, I believe the actions you took over the last three or four years have a great deal to do with the status of the American economy. I frankly believe you were subject to some undue criticism, but if we have a solid recovery, I think it's very significantly related to the conduct of the Federal Reserve over the last 3-1/2, four years.

Maybe President Bush would have liked it differently, maybe Dick Darman would have, maybe it all could have happened earlier, but nonetheless, I think you're somewhat responsible, so I trust you at least on what you're doing now.

X000055

SEN. RIEGLE: That reminds me a little bit of watching some of that Olympic skating competition last night when they throw the bouquets out on the ice. You just threw a nice one to the chairman. Senator Kerry?

SEN. : You were critical of him. You wanted to loosen up even more.

SEN. RIEGLE: Well, the other day I think my comments were comments that reflected some understanding as to what the chairman's trying to do, and I think he's put additional light on that today. I don't think this chairman wants to strangle the economy. I'm speaking of Chairman Greenspan, and, you know, sometimes you can do that and not intend to. But I think he's trying to be as prudent as he can be. Senator Kerry?

MR. GREENSPAN: Excuse me. Mr. Chairman, is that -- (inaudible)?

SEN. RIEGLE: Are you excused? Can you take your bouquet and go? (Laughter.) Yes, you can. Senator Kerry?

SEN. BOXER: You get a 5.9 from me.

SEN. RIEGLE: Senator Boxer gave you a 5.9. (Laughter.)

SEN. BOXER: You skate so well (on the ice ?).

SEN. RIEGLE: Especially on the technical portion of the -- (laughter) -- of the program.

X000056

SENATE BANKING/FDIC OVERSIGHT PAGE 89 02/24/94
RESUMPTION OF COVERAGE

x x x program.

SEN. : (Off mike.)

SEN. RIEGLE: Senator Kerry?

SEN. JOHN KERRY (D-MA): Mr. Chairman, I'm not sure I have time to stay through the whole process here, so I may review the bidding here a little bit. But just speaking as a former prosecutor, one of my colleagues over here was sort of questioning the duality. I can tell you, as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, multiple copies of documents moving around. I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly wouldn't be a judgment that I made to make things public in the middle of an investigation because it inevitably taints somebody's something and it creates a very hard process for pursuing a track. What astonishes me here a little bit -- and I want to reiterate it -- I mean, we've got \$150 billion problem here which taxpayers are paying for. They're already angry enough about us wasting their time and duplicitous process. And here we are, frankly, with very important people in front of us having spent a morning not really examining where that \$150 billion went, not talking about it, but dealing instead with politics. And that's what this really comes down to, it's politics. It's totally unnecessary. In the context of the gentlemen who has been made a special prosecutor, a Republican appointed by a Democrat -- and let me just share with colleagues again quickly something about Mr. Fiske. This is an article from the New York Times right after he was appointed: "Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest. 'The choice is one that you simply can't argue with,' said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush and a college classmate of Mr. Fiske's more than 40 years ago. 'He's one of those guys who has always conducted himself with integrity.'" The article goes on to say that: "Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the first family."

Now, if that's not enough, if we don't have the patience to allow him to do his job and sit here and ask relevant questions about \$150 billion, we ought to ask what we're doing. I mean, this is why the taxpayers get so fed up because all we do is dig into politics. And there's a huge distinction between this case and prior cases because we are not looking at a current situation where the president is currently making decisions about current money being spent or current policy. This is something that happened when he was governor -- if whatever happened happened -- and I suggest that this prosecutor has the ability to get at it. If he doesn't, I'll join with Senator D'Amato, I'll be one of the first people -- I think I have a good reputation here on the basis of BCCI and Noriega and other investigative efforts in pursuing things. But I think back to the time that I was trying to do that. I didn't have any help from the other side of the aisle. We did not get subpoena power. We did not have the

X000057

ability to have a full-fledged investigation in this committee on that. And I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a special prosecutor. Most of my colleagues making a lot of noise about this now opposed having a special prosecutor. So I just think fair is fair at some point in this business. We all understand the game and we all understand what happens. But it seems to me that to take a 150 billion dollar fiasco and relegate it to a second tier for this 194 state-run -- who was the primary regulator of this institution originally? MR. : The -- originally it was the Federal Savings and Loan Insurance Corporation, and then later OTS.

SEN. KERRY: So it came to the federal government secondarily. And, I might add, for two years this case was closed. It wasn't until six weeks before the election -- and we ought to ask some questions about this -- that suddenly, when Bill Clinton was the nominee for president of the United States, that there was a criminal referral to the RTC, not until six weeks before the election. For two years while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today. So I'm not saying questions shouldn't be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions because it's a sorry chapter in American politics. But that's going to happen, the 25 FBI agents and depositions and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes, avoiding the real issues that they would like us to dig into. And I don't think much more needs to be said beyond that.

SEN. RIEGLE: Senator Bond?

MR. : Mr. Chairman, may I make a correction?

SEN. RIEGLE: Yes.

SEN. KERRY: I think Senator Kerry asked who was the primary regulator. The primary regulator was the state of Arkansas.

SEN. KERRY: Well, that was what I was getting at. The primary regulator was the state.

MR. : Exactly. And the primary federal regulator was FSLC and OTS.

SEN. KERRY: Correct. So the issue of federal nexus here in terms of decisionmaking is only by transfer, not by original jurisdiction. So what we're doing is secondary to the third tier.

SEN. RIEGLE: Senator Bond?

SEN. BOND: Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer. I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions, which are along the lines that Senator Kerry raised. I also have a series of questions for the FDIC and for the RTC which follow up on these other questions, but in the time remaining I do want to pursue a couple of items. When

X000058

we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were. Now, if the RTC under your direction were requesting records from the first lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the first lady?

MR. ALTMAN: Senator, I don't get involved in any substantive aspects of any PLS case, particularly -- or including documents that they may seek. So they've never brought that to my attention since I've been in this job, and that goes right through today.

SEN. BOND: So you wouldn't expect them to tell you.

MR. ALTMAN: No, I wouldn't.

SEN. BOND: I find that remarkable. In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some members of Congress. Could you furnish to this committee the latest, most up-to-date inventory and provide the hearing -- for the hearing record along with the previous versions? Would you make that available?

MR. ALTMAN: Last evening we supplied the -- 6,500 pages of information to Senator D'Amato's office, as we had some time earlier to Congressman Leach. SEN. BOND: And is that the entire inventory? Are those all the documents? You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at the particular time, a new standard for delivery in package express.

MR. ALTMAN: Well, I have here a list of the documents.

SEN. BOND: Is that the latest version?

MR. ALTMAN: This is just a list of what the documents are. There's 6,500 in total pages. This is a list of the documents we provided.

SEN. BOND: If you could make one available for the record, we would like to have that. I'd appreciate it.

MR. ALTMAN: Be delighted.

SEN. BOND: Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

MR. ALTMAN: Last fall I was advised that the question of a referral to the Justice Department was under consideration at the RTC, and as other members of the RTC staff will attest, I said that normal procedures, with no deviation whatsoever, should be pursued, including chain of command procedures, in terms of reaching that conclusion.

X000059

I might tell you that typically decisions like that are made at the regional office level, and that it was in this case.

SEN. BOND: Were you aware that the regional office had asked the national office to make a determination as to whether the Clintons' name should be in the new expanded referral?

MR. ALTMAN: No.

SEN. BOND: You did not know they were asking for the national office to make a determination on that?

MR. ALTMAN: No. I was simply informed that this issue was on the table, and my reaction was -- I had only one conversation about it -- that normal procedure should be followed. That's the way we're going to handle this thing from beginning to end.

SEN. BOND: How was the White House notified of the referral? Was it from your agency?

MR. ALTMAN: They were not notified by the RTC, to the best of my knowledge.

SEN. BOND: Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?

MR. ALTMAN: Not to my knowledge.
(Confers off mike.)

Ms. Ford, do you know if the White House was notified by the RTC?

MS. FORD: No, we have had no involvement at the Oversight Board whatsoever.

SEN. BOND: When was the firm of Madison & Pillsbury put on retainer by the RTC, do you know? And for how long and what cost?

MR. ALTMAN: I don't know that. I'm aware that that firm has been retained as outside counsel on this matter, but I'm not aware of the date on which it was retained nor the retainer arrangements.

SEN. BOND: Will they review the potential of suing the various law firms who represented Madison or the board of directors?

MR. ALTMAN: I don't know the answer to that question.

SEN. BOND: We'd appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that. And finally, I'm advised that the list you have there is just an inventory of the documents provided to Senator D'Amato; it is not the complete inventory of the documents pertaining to Madison. And if I'm mistaken, in either event, we would appreciate receiving a copy of the inventory of the entire documents.

X000060

MR. ALTMAN: Well, Senator, I'm not sure I fully understand your question. But what we have released amounts to what we've been asked for, less any documents that, in our judgment, could prejudice the investigation. I told you earlier that we'd had a couple of conversations -- I haven't had them; I'm advised there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we're trying to adhere to that.

SEN. BOND: As I understand it, that you have prepared an inventory. I'm not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps members of the House side, or others, with the inventory, not the contents of the documents.

MR. ALTMAN: Any information, I assure you, that we have supplied to Congressman Leach or anyone else -- elsewhere in the Congress, we're delighted to supply to you or anyone else here that would like them.

SEN. BOND: Would that include an inventory, a cataloging, not the contents but a cataloging of the documents in the Madison case?

MR. ALTMAN: We will supply you with any information to that extent that we can which does not get into areas that we think would prejudice the investigation. SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BOXER: Mr. Chairman, I'd like to -- I'm still working.

SEN. RIEGLE: All right. Senator Domenici, you're next in the order.

SEN. DOMENICI: Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

MR. ALTMAN: Yeah, one substantive contact.

SEN. DOMENICI: Please?

MR. ALTMAN: One substantive or meaningful contact.

SEN. DOMENICI: Yeah. Well, I assume -- we're not arguing there that you had -- you're not suggesting you had more than one, are you?

MR. ALTMAN: No. I'm just saying that if you -- you know, you run into someone in the hall -- did you see that thing in the paper this morning? -- I'm not including that.

SEN. DOMENICI: All right. You said you were there to give a heads-up. What I understand the situation to be on average folks, a couple of them in my state that were bordering up

X000061

alongside of a statute of limitations becoming a defense, they were presented with a tolling agreement, and if they didn't sign it, suit was filed so as to toll the statute. Is that a rather fair assessment of the way business is done?

MR. ALTMAN: I think I'd have to know the details of the matter, Senator.

SEN. DOMENICI: Well, I guess what I'm wondering, are we getting the right perspective of why you did this? Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement, or to know that the normal process was that the toll -- the statute's going to toll, and there's reasonable grounds to suspect something, they might expect a lawsuit? Or why else would you give them heads-up?

MR. ALTMAN: The difference between this and a matter like the one you referred to is that I had been receiving -- had begun to receive a lot of inquiries, including in writing from Congress, as to what procedures the RTC was going to follow, and I wanted to give them the same sense of those procedures that I was giving members of Congress. And I said to them nothing different than I've said to members of Congress.

SEN. DOMENICI: Well, I understand that, but I guess what I'm getting at is there must have been a reason for telling them that. Congress was just saying the statute's going to run, what are you going to do, so you went over there to tell them that we're going to apply the same thing we do in any other case? And that's the heads-up that you were giving them?

MR. ALTMAN: That's right.

SEN. DOMENICI: Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement or filing a lawsuit? MR. ALTMAN: Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994; that the RTC was going to make every effort to make a decision by that date. It could fundamentally reach only one of two decisions, that there was a basis for a claim or that there wasn't. If there was a basis for a claim then we would either seek a tolling agreement to permit more discovery and more preparation or we would file that claim in court.

SEN. DOMENICI: Well the passage of the statute of limitations extension eliminates that problem as you have already indicated.

I guess, Mr. Chairman, I'm having a little difficulty with explanation because one way of looking at it was that it was not a very meaningful or important meeting -- that he was just doing this so that he would be able to tell Congress he had told them he's going to treat them the same way as others. I don't think a man -- you know, I know you fairly well -- I don't think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they're going to be treated the same way as other people --

X000062

MR. ALTMAN: Senator, I did not know whether they knew of such procedures which as I say I was then communicating to members of Congress and it just seemed to me a little odd to explain to a member of Congress that we're going to follow "XYZ" procedures and not have them ever be made aware of what those were.

SEN. DOMENICI: Well, I want to close on this remarks by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry, you know, it's almost an insult to accuse us of not being concerned about oversight and that some how or another the other side is more interested in how the RTC turned out. Frankly, that's just borders on being a joke. This hearing, we have all your statements, we're going to read them. So we're going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they'll brief us so we're going to know. My last observation would be that it's inconceivable to me Mr. Altman that you would really be concerned that the people involved in the investigation, whomever they are, whether it be the people in Arkansas, whether it be confidants of the President, whomever, that they would not know that the statute of limitations was going to toll and that that presented a situation that you had to advise somebody on.

I just don't think anybody involved in this would not know that.

MR. ALTMAN: Senator, I also -- I would agree with you. I can't say for sure. I don't know what was in their minds. I doubt very much that they did not know about the statute of limitations.

SEN. DOMENICI: Right.

MR. ALTMAN: What I was saying was not that. What I was saying was I did not know if they knew and, frankly, my impression is, as a result of that meeting, they hadn't previously known what procedures the RTC would be following. By that I mean that you have to choose between -- you have to reach a conclusion as to whether there's a claim or there isn't, and then what you have to do if you reach the conclusion that there is.

SEN. DOMENICI: All right. Thank you very much.

SEN. RIEGLE: Thank you.
Senator Faircloth?

SEN. FAIRCLOTH: Thank you, Mr. Chairman. And I will echo Senator Domenici. You have done a superb job of conducting. And I'll be very brief. My questions are to Mr. Hove. Mr. Hove, we keep coming back -- you said the FSLIC issued this report, who has long been out of business, and did the investigation on Mrs. Clinton and her relationship.

MR. HOVE: No, sir, I didn't say FSLIC. I said that the agency that handled the closing of First American was FSLIC, and that occurred before FDIC had any involvement in that.

SEN. FAIRCLOTH: All right. But who did the investigation -- I assume there was one done

X000063

-- to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at?

MR. HOVE: We did not do an investigation, we did not do a review because we don't have all the records. The records are the old FSLIC records that are not in one central repository. All we did was review the records that we had available at the FDIC, and the records that we had at the FDIC only indicated that Mrs. Clinton's involvement, from the records that we could review, was the two hours that she spent filing the amended complaint for her partner, Vince Foster.

SEN. FAIRCLOTH: So, what you're saying really is that you did a very incomplete and surface investigation.

MR. HOVE: We did not -- we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC.

SEN. FAIRCLOTH: Well, I would say that Mr. Whitney (sp) issuing such a clearance for Mrs. Clinton in the name of the FDIC doesn't lend a lot of credibility to an FDIC investigation when he makes his statements and when you didn't really have the records to make an investigation, from what you're telling me.

MR. HOVE: What we were doing was correcting the information that was erroneous in the Chicago Tribune report because the Chicago Tribune said that it was an FDIC case, we said it was not an FDIC case. And we also said that from our records, this was the only involvement that we could have.

SEN. FAIRCLOTH: Well, don't you think it would be a good idea to hunt up the old FSLIC records and see what they might lead you farther? But I have a question, and then I'm going to -- (inaudible word).

The original suit was \$3.3 million. They settled it for 6 cents on the dollar, or \$200,000. What I want to know is how much was Mrs. Clinton paid, or the Rose law firm.

MR. HOVE: I can't tell you. I don't know that.

SEN. FAIRCLOTH: Can you find out?

MR. HOVE: We can try.

SEN. FAIRCLOTH: Well, I would like for you to let me know as quickly as possible how much the Rose law firm was paid, and also their work records to indicate who did the work to earn the money, because -- you say she worked two hours.

MR. HOVE: I didn't say that. I said the only thing that we can ascertain from the records we have was that she worked two hours. And let me remind you, Senator, that these records are disbursed from wherever FSLIC had the records, and we did not take possession of those

records when FSLIC was closed down.

SEN. FAIRCLOTH: Are those records still available?

MR. HOVE: I don't know.

SEN. FAIRCLOTH: If she settled the lawsuit, the amount of hours she worked -- it is just impossible for me to believe she settled this lawsuit against Lassiter (sp), she signed the amended return, which was the settlement, the amended complaint, which was the settlement against Lassister, at a very favorable rate, then we turn around and find that Lassiter's -- the person with his power of attorney is back in the White House working.

MR. HOVE: Senator, the amended complaint reduced the complaint from 3.3 million to 1.3 million. The suit -- the settlement was some six months later. I don't know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from 3.3 [million] down to 1.3 [million].

SEN. FAIRCLOTH: So we have no idea whether Mrs. Clinton made the final settlement totally.

MR. HOVE: I have no idea from our records and what we've seen --

SEN. FAIRCLOTH: And this two-hour thing -- she could have worked 200 hours.

MR. HOVE: What I have told you is what we have available at the FDIC.

SEN. FAIRCLOTH: But she could have worked 200 hours on it.

MR. HOVE: And all I'm telling you is that the records that we have indicate she worked two hours.

(Confers off microphone.)

Okay, the only records we have was that she billed FSLIC for only those two hours.

SEN. FAIRCLOTH: Billed who?

MR. HOVE: FSLIC. (Pronounces each letter.)

SEN. FAIRCLOTH: How about getting the total records from FSLIC and finding out how much the total bill was and whose time was billed? I'd like to see it. Thank you.

SEN. RIEGLE: Senator D'Amato?

SEN. D'AMATO: You know, Mr. Hove, I have difficulty if you really have trouble figuring out when a claim is initially lodged for \$3 million and then it is reduced and you say, well, you know, the law firm or this partner -- in this case, Mrs. Clinton -- only billed for two hours. But the nature of the work was such as to reduce that lawsuit and the potential

X000065

liability to Mr. Lassiter (sp), who has a definite relationship with the Clintons. I mean, are we really to believe you don't understand that? Now, don't give me this two-hour stuff. I mean, the fact is that that claim was reduced -- the potential of the claim -- from 3 million down to a 1 million some odd, and therefore, a settlement of \$200,000 is much more reasonable in appearance when the initial -- when the suit is only asking for a 1.3 million as opposed to 3 million. Now, doesn't that make some -- I mean, do you see why a senator or anyone else would make an inquiry and say, "Look" -- I mean, what's the situation here? Are you telling us there was no conflict there.

MR. HOVE: But, Senator, you're asking FDIC, and FDIC did not have any involvement in that suit at that time.

SEN. D'AMATO: I'm not suggesting that. What I'm suggesting to you is that a period of time it came under you for review.

And if you look at this -- don't keep telling us that FDIC didn't have anything at that time. We're not suggesting that you did anything wrong. We're suggesting you take a look at the facts, take a look at the record, and you can be a school boy, you can't come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person that they brought a suit to. And as a matter of fact, whether it was two hours or one hour, the determination was made to reduce the claim that might bring the potential liability from \$3 million down to \$1 million and eventually settle for \$200,000. Now, we don't know who was responsible for the settlement. But the fact of the matter is that the partner who reduced and amended that complaint was Mrs. Clinton. Now that's obvious. I'm not going to spend my time going back and forth with you. I'm going to tell you something else, though. When we talked about the potential for conflict before, as it related to the Madison Guaranty and Mr. Hubbell, I want to refer you to a letter of June 8th, 1989. Now, Mr. Hove, you stated that since the Rose law firm -- when I first brought this up to you -- was suing Frost, it wasn't relevant that Web Hubbell's brother-in-law and father-in-law were suing Madison. Now, if you take a look at that letter -- and I'm going to suggest to you that you're wrong, and that's why you'd better have the IG look at this. June 8th, 1989, and it is written to April Breslaw (sp), Attorney, Federal Deposit Insurance Corporation. I'm reading part of it:

"Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately \$447,000." Now, I'm going to skip the next sentence, go down to --

"Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought, whether in state or federal court. At a minimum" -- it goes on to say -- "the state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Miss Styrahorn (ph) has informed me that the informal -- the information contained in the audit files could be damaging to our case, especially if a new trial is granted."

It goes on and it concludes: "I offer this information because there appears to be a conflict in

X900066

representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter." Now, look, I'm not suggesting that at that time that you know of it. Here it is. And that's why, if you don't refer something to the IG to clarify whether or not there was a conflict, you can't be doing the right thing. And for you to maintain, "Well, we weren't there at the time; it was at FSLIC" or "Maybe the rules were a little vague." I mean, for god sakes, you had lowly auditors saying, "Wake up, fellas." You had an auditor in another letter saying it's impossible to think that he's not going to tell his in-laws what's going on. So that's the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

Mr. Chairman, notwithstanding first of all I'm going to ask that we be permitted to submit some documents for the record that have been returned to --

SEN. RIEGLE: Without objection, so ordered.

SEN. D'AMATO: -- so we can keep an orderly proceeding.

Secondly, I want to say before I conclude that you could not have been fairer in making available this opportunity and according the members the opportunity to make their presentations and to ask their questions under very difficult circumstances. So I want you to know that. And I think that I speak for all the Republicans on the committee in relationship to the manner in which you have conducted this proceeding. And it's not easy for you, and I just want to commend you for your impartiality.

And let me conclude again. I think what we're interested in, in this, is seeing -- and Senator Domenici said -- that the process moves forward without there being interference, without there being a question as to what documents have been made available to the appropriate people, what has been taken. Some of these things have no -- I see Mr. Altman. He's placed in a very, very difficult position. I've said that publicly as well. It is a very, very difficult situation. And it certainly -- it leads to us raising the kinds of questions that we have. But I tell you this senator wants to see that what was supposed to be done was done, that what should be done at the present level is carried out in a manner in which everyone can say that the right thing was done. And then let the chips fall where they may.

So, Mr. Chairman, again, thank you for providing us an opportunity to put forth our concerns, and hopefully, this will move us a step closer to resolving this matter. Thank you. SEN.

RIEGLE: Thank you very much. We'll give you some questions for the record, and we'd ask you to respond to them. The committee stands in recess.

END

X000067

To: Todd Stern

456-225

Fr: Eric Gorman

94 MAR 1 P1:25

8 pp total

X000068

U.S. SENATOR

Al D'Amato**News
Release**

NEW YORK

Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zena Mucha • 212/736-3065

FOR IMMEDIATE RELEASE:
Tuesday, March 1, 1994CONTACT: Frank Coleman
(202) 224-6498**D'AMATO BLASTS WHITE HOUSE STATEMENTS ON SECRET RTC BRIEFINGS**
'PATTERN OF DECEPTION' CONTINUES IN MADISON/WHITewater AFFAIR

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) today called for Senate Banking Committee hearings into secret briefings provided by the head of Resolution Trust Corporation (RTC) for senior White House political staff about the agency's investigation of the Madison/Whitewater affair.

D'Amato also charged that since the disclosure of the secret "heads up" was revealed at last Thursday's Banking Committee hearing, the White House was continuing its pattern of deception by suggesting that the same briefings were provided to Congress and the press.

"The White House has now compounded these shocking revelations by stating falsely that Congress and the media also received these briefings," D'Amato charged. "At the time this secret meal was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our Committee with any information about its activities on the Madison/Whitewater mess. And I have yet to encounter a reporter covering this story who says he or she was briefed by the RTC, let alone its acting President."

D'Amato, senior Republican on the committee, added that the exposure of the secret briefings at a Banking Committee hearing proved that Democrats needed to end their "footdragging" over whether or not to hold hearings.

"Only through a Congressional hearing did we learn of this very real threat to the integrity of the RTC's investigation," D'Amato pointed out. "We have a responsibility to the American people to fulfil our legitimate oversight function."

"The Democratic members of this committee must understand the threat is not Congressional inquiry, but secret, high level off-the-record 'heads-up' meetings between top Administration officials and White House legal and political experts," the Senator stated. The secret briefing, described as a "heads-up" by acting RTC head Roger Altman was presented to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Joan Hansen.

Among the questions D'Amato said could be answered by a hearing: Why does White House Counsel Mr. Nussbaum need to be briefed on the RTC's investigation of Madison that does not involve the President in his official capacity? And what about Mr. Ickes and Ms. Williams? Why in the world would these political operatives need to be briefed by a top agency official on an investigation that has nothing to do with the Executive Office of the President? Were any confidential or non confidential RTC or law enforcement documents or other materials used during the briefing?

-fc022094-

United States Senate • Washington, D.C. 20510 • (202) 224-6542

Hagans Offices: New York (212) 247-7000 Albany (518) 472-4343 Syracuse (315) 423-5471 Rochester (716) 263-3886 Buffalo (716) 846-4111

X000069

U.S. SENATOR

Al D'Amato

NEW YORK

**News
Release**

Contacts: Washington • Frank Coleman • 202/224-6490 New York • Zena Mucha • 212/736-0952

FOR IMMEDIATE RELEASE:
Friday, February 25, 1994CONTACTS: Frank Coleman 202-224-6490
Zena Mucha 212-736-0952D'AMATO DENOUNCES DNC CHAIRMAN'S POLITICAL STRONGARM TACTICS

WASHINGTON -- U.S. Senator Alfonse W. D'Amato (R-NY) today denounced the political intimidation tactics being used by Democratic National Committee Chairman David Wilhelms to prevent further investigation of the growing Whitewater/Madison scandal.

"It is an outrage that the President and First Lady would use their handpicked political hatchetmen to try and intimidate the legitimate oversight responsibilities I have as a United States Senator. This is another clear sign that something is rotten in Little Rock," said D'Amato.

Attached is the letter from Wilhelms to Senator D'Amato and D'Amato's response.

t t t

b3-009 175

United States Senate • Washington, D.C. 20510 • (202) 224-6512

Albany: (518) 474-4500 Springfield: (417) 763-6000 Sacramento: (916) 778-6000 Boston: (617) 725-6000



X000070

February 25, 1994

Senator Alfonse D'Amato
United States Senate
520 Hart Senate Office Building
Washington, D.C. 20515

Dear Senator D'Amato:

It is clear you are the leader of the Senate GOP attack on the credibility of the RTC and FDIC investigations of Madison Guaranty Savings and Loan and the Rose Law Firm. You claim you are motivated by concern over possible ethics violations and not political partisanship. In that light, it seems only appropriate we examine your own history because your accusations of conflict of interest seem more appropriately applied to yourself.

You have fought to extend the statute of limitations in the RTC savings and loan investigation because of a potential conflict of interest with regard to Madison. However, one need only cursory examination to see that you are a more appropriate target for extension of a statute of limitations. Your actions present a clear pattern of conflict of interest over savings and loans and other business interests.

You personally benefited from the existence of a statute of limitations. In 1986, three highly respected deans of leading law schools said new evidence "proves the probability of perjury" in your testimony before a 1975 federal grand jury. As I'm sure you will recall, you testified you were unaware of the "1 percent rule," a practice of forced payments by employees of the town of Hempstead to the Nassau County Republican Committee. These payments occurred while you were Hempstead's Town Supervisor and Vice-Chairman of the county party.

In 1988, it became public you were in fact very much aware of the practice at the time of your testimony, and had been actively involved in collecting those payments on behalf of the Nassau County Republican Committee. It became public through release of a letter you wrote, in which you claimed success in collecting this payment from a particular employee. Your letter became key evidence in the trial proving the existence of the "1 percent rule." However, by the time the new evidence emerged, you were immune from prosecution because the statute of limitations on the case had run out.

Your position on the statute of limitations would have more personal credibility if you demonstrated consistency by fighting to extend the statute of limitations on your own grand jury testimony in the Nassau County case. You also criticized a 1993 amendment which would have extended the statute of limitations on bringing legal action against negligent savings and loan

X000071

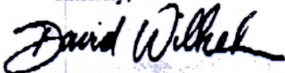
directors. The law of 1975 tried to protect directors of savings and loan institutions by leaving the statute of limitations in place.

In addition, you have been pointing fingers of blame in the Savings and Loan collapse and clean up you should have tried to point to yourself. Your gutting of legislation to tighten regulation on corporate takeovers resulted in the removal of a provision that would have limited S&L purchases of junk bonds. Your contribution records demonstrate a curious pattern of financial support from junk bond dealers and thrift operators at the same time you have worked to weaken legislation which would have restricted junk bond investments by savings and loan institutions. Of course, weaker legislation has now cost taxpayers billions of dollars in clean-up.

Finally, your charges of unethical management do not reflect your own experience of being found by the Senate Ethics committee to have "conducted the business of [your] office in an improper and inappropriate manner" that permitted your brother Armand to send letters to the Pentagon urging approval of weapons contracts for a company he represented.

I hope you will give serious consideration to the points discussed here and that you will take action to extend the statute of limitations on your testimony of 1975.

Sincerely,



David Wilhelm
Chairman

X000072

ALFONSE D'AMATO
W-1046

United States Senate
WASHINGTON, DC 20510

February 29, 1994

Mr. David Wilhelm, Chairman
Democratic National Committee
430 South Capitol Street, SE
Washington D.C. 20003

Dear Chairman Wilhelm:

I am in receipt of your letter from this afternoon. It only reconfirms my suspicion that something is rotten in Little Rock. You can be sure that I will now redouble my efforts to get to the bottom of this Whitewater/Madison scandal.

Sincerely,



Alfonse M. D'Amato
United States Senator

P.S. Your attempt to interject political intimidation into this process is despicable.

Washington Post 2/26/94

The Wash.

X000073

Senior Official Steps Aside in Probe Of S&L Linked to Clintons' Venture

By Susan Schmidt
and Charles R. Babcock
Washington Post Staff Writers

Deputy Treasury Secretary Roger C. Altman, a political appointee serving as temporary chief of the federal thrift cleanup agency, resigned himself yesterday from any further action on the investigation of an Arkansas savings and loan with ties to President Clinton and Hillary Rodham Clinton.

Altman announced he was taking the step one day after revealing during congressional questioning that he secretly briefed White House officials on how his agency would proceed with potential civil claims growing out of the failure of Madison Guaranty Savings & Loan, Altman's disclosure, after questioning from Republican senators, was criticized as evidence that the White House is improperly interfering in a case that directly affects the Clintons.

Altman also said he will step down as interim head of the Resolution Trust Corp. at the end of March. The administration is expected to name a permanent chief soon for the RTC, which by law is supposed to be an independent federal agency. Treasury officials said Altman did not leave the Madison investigation because of a conflict of interest but rather because there was the appearance of conflict and decided to recuse himself for that reason.

The RTC is disposing of failed thrifts and pursuing civil and criminal cases against officers, directors, lawyers, accountants, borrowers and others. Hillary Clinton and her former associates at the Rose Law Firm in Little Rock, Ark., represented Madison before state regulators in the mid-1990s.

Altman told the Senate Banking Committee that he contacted White House counsel Bernard Nussbaum about three weeks ago and offered to meet with him to explain what the RTC would do as the deadline for filing civil claims in the Madison probe neared. That deadline was Feb. 23, but Congress has extended it until the end of 1995.

Altman said he met with Nussbaum, Margaret Williams, Hillary Clinton's chief of staff, and the president's deputy chief of staff, Harold Ickes, who has been assigned the task of damage control in the Whitewater probe.

White House officials yesterday defended the meeting. "There's nothing

improper about it," said White House press secretary Dee Dee Myers. "He basically informed the White House—as he did Congress, as he did the press. It was strictly a procedural briefing. There was nothing available that was not available to members of the press or Congress."

Altman said he told White House aides during the meeting that if the RTC found a claim was warranted, it would either file a lawsuit or ask potential defendants to voluntarily sign agreements extending the deadline. He said he already had given such information to inquiring Republican members of Congress.

Meanwhile, Rep. Jim Leach (Iowa), the ranking Republican on the House Banking Committee, yesterday released portions of a taped conversation in which the Clintons' former business partner, James McDougal, disputes their accounting of their investment in their joint Whitewater land venture. McDougal said in the 1993 conversation that the Clintons never made a \$9,000 interest payment that they claimed on their 1980 federal income taxes and that they used corporate assets to pay off a personal loan.

In a memo to minority committee members, Leach said McDougal's comments "appear to indicate that the Clintons lost no money in Whitewater" and "suggest that the tax consequences which emanate from this venture merit careful scrutiny."

Leach, who has been gathering documents for hearings he plans to hold next month on the Whitewater matter, said in an interview yesterday that he considered McDougal's comments important because "he is sitting down with book ledgers, which lends it great credibility." The tape was made during a talk McDougal had in the spring of 1992 with Sheffield Nelson, who ran for governor against Clinton in 1990 and was himself an investor in a project financed through the McDougal-owned Madison Guaranty Savings & Loan.

The Clintons claimed in their 1992 federal tax returns that they made \$9,000 in interest payments to McDougal related to the Whitewater venture. "They didn't pay me.... They have never paid me a penny's interest," McDougal said.

In recent weeks, McDougal has said that he could recall the Clintons putting about \$13,500 into Whitewater, not the \$68,900 they

claimed when the investment became an issue in the 1992 presidential primaries and since.

Referring to the 1992 taped conversation, Bruce Lindsey, a senior White House aide, said yesterday "I think he [McDougal] is confused. He has said he is relying on his memory with these amounts, and his memory is mistaken."

Lindsey said in an earlier interview that he believed the Clintons paid McDougal \$9,000 in 1980 to compensate him for interest he had paid on a joint loan used to finance the Whitewater venture.

Special counsel Robert B. Fiske Jr. is now trying to sort out Whitewater's finances as part of an intense Justice Department investigation.

In the taped conversation with Nelson, apparently just after the Clinton campaign released a report about the Whitewater investment, McDougal said: "I could sink it [the \$68,900 figure] quicker than they could fix about it if I could get in a position I wouldn't have my head beaten off. And Bill knows that."

In the transcript, McDougal said the Clintons personally sold "a corporate asset" for which Whitewater had made all the payments. He was referring to a lot and mineral rights on the Whitewater property, Lindsey said the Clintons made some payments on the lot.

Last night, McDougal said a transcript read to him "sounds fabricated." He told the Associated Press, "I'm reserving any further comment until whatever Republican prepared the transcript makes the original tape available."

In another development, Sen. Alfonse M. D'Amato (N.Y.) accused Democratic National Committee Chairman David Wilhelm of using "political intimidation tactics" in a letter criticizing D'Amato for leading the GOP charge on Whitewater.

In the Feb. 25 letter, Wilhelm said D'Amato's own actions "present a clear pattern of conflict of interest over savings and loans and other business interests." As one example, he cited a Senate ethics committee probe of D'Amato's conduct in permitting his brother Arnold to send letters under his name to the Pentagon to lobby for a contract.

D'Amato's reply said the letter "reconfirms my suspicion that everything is rotten in Little Rock."

Staff writer Ruth Marcus contributed to this report.

NY Times 2/27/94

X000074

Slovenly White House Ethics

President Clinton and his helpers keep saying they have nothing to hide on Whitewater. So some evil genius must be making them act as if they do. The latest affront is the hothouse concoction conceived by Deputy Treasury Secretary Roger Altman to give a "heads up" to three White House officials about the Resolution Trust Corporation inquiry into a savings and loan association connected to Mr. and Mrs. Clinton.

Mr. Altman said he wanted to brief Bernard Nussbaum, the White House counsel, Harold Ickes, the deputy chief of staff, and Margaret Williams, the first lady's chief of staff, on when the statute of limitations would run out on the R.T.C. investigation of Madison Guaranty Savings and Loan.

That is an interesting question and not unrelated to other questions that Republicans on the Senate Banking Committee and other reasonably curious Americans would like to have answered. Here are four:

1. Was Madison used to convert Clinton campaign funds to personal funds for the then Governor?

2. Did a regulator appointed by Governor Clinton go easy on Madison because it was owned by the Clintons' political ally, James McDougal, who was also the Clintons' business partner in the Whitewater Development Company?

3. Did the Clintons pay the same amount of money for their half share of Whitewater that Mr. McDougal paid for his? This question is important because it bears on whether Mr. Clinton, while Governor, received gifts or claimed undeserved tax deductions in connection with Whitewater.

4. Did Mrs. Clinton's law firm behave properly in its dealings with Madison and bank regulators?

Given that such questions are now before a special counsel and the R.T.C., a meeting between Mr. Altman and top White House aides was improper on its face. It could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the

sham ethics of the early Reagan Administration. That crowd believed conflicts of interest could not exist since they could not conceive of letting any law or rule of propriety interfere with the political and financial interests of the President or his buddies.

The stated reason for this meeting will not wash. Information on the statute of limitations could be had from the newspapers or a brief memo from the R.T.C. legal staff. Senator Alfonse D'Amato and Representative Jim Leach therefore have reason to suspect that the goal of the meeting was to control political damage or compromise the R.T.C.'s investigation. Who knows what the White House has learned about the R.T.C. findings? After all, it was only through Mr. D'Amato's efforts that the Government released an R.T.C. document suggesting that Mrs. Clinton's law firm had failed at proper disclosure of its dealings with Madison.

In response to bad publicity, Mr. Altman has relieved himself from the R.T.C. inquiry on Whitewater. His R.T.C. deputy should now take over all his duties at the Agency until a permanent director is appointed. Senator Donald Riegle, the chairman of the Senate Banking Committee, needs to step up his committee's oversight activities. Other Democrats like Senator John Kerry need to cease their myopic defense of Mr. Clinton on a matter about which neither the Senator nor the public has been fully informed.

Opposition leaders are right when they say that a Republican White House that so recklessly muddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless Congressional investigations. It is time for the Democratic Congressional leaders, Thomas Foley and George Mitchell, to try to educate this White House about the normal protocols of governance. Explaining what Representative Leach meant when he said "arm's length" would be a start.

Clinton aides behave as if their President had deep deposits of public trust. In fact, that account was pretty slim when Mr. Clinton got to Washington, and it is just about tapped out now.

X000075

7/22

Do investigating R's
(meeting U. S. S.) -- R RTCSENATE BANKING COMMITTEE HEARING -- TO DO LISTmaybe FDIC
reluctant
etc.

- ✓ • Prepare witnesses (especially Altman and Hove) for GOP questioning. Key topics: (Mike Levy)
 - ♦ FDIC Report clearing Rose of conflicts with respect to prior representation of Madison before Ark. Securities Commission was a whitewash. (See attached discussion.)
 - ♦ FDIC Report clearing Hubbell of conflicts with respect to his relationship with Seth Ward was based on faulty assumptions.
 - ♦ FDIC statement clearing Mrs. Clinton of any conflict in representing the FDIC against Dan Lasater is another whitewash.
 - ♦ Altman's failure to recuse himself.
 - ♦ The nature of the RTC's investigation of Madison. By dragging its heels, RTC cost taxpayers a lot of money. Is investigation continuing? What is going on? Criminal referral to Justice -- what were circumstances. Is RTC going to pursue any civil relief? Etc.
 - ♦ RTC's incomplete responses to congressional requests for documents.
 - ♦ Were Madison resources directed into other business ventures of principals? Into Clinton campaign funds?
- ✓ • Chronology of RTC's investigation of Madison. Who did what. When and why were referrals made to Justice. What if anything is going on now. Etc. (Levy)
- ✓ • What is status of the Dallas story. Are we planning to unveil anything at the hearing? (Levy)
- ✓ • Is Treasury working on questions for Committee Dems? (Levy)
 - Line up a Senator of two (e.g., Boxer, Murray, Sarbanes) to counterpunch. (JDP, Sosnick)
 - Have a page or two of background plus questions for the counterpunches. (Stern/Winer)
 - Staff meeting at 5 pm -- divvy up responsibilities.

REDACTED

**THE WHITE HOUSE
WASHINGTON**

X000076

February 28, 1994

MEMORANDUM FOR FILE

**FROM: JOHN D. PODESTA
 ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY

 W. NEIL EGGLESTON
 ASSOCIATE COUNSEL TO THE PRESIDENT**

**RE: WHITEWATER--SENATE BANKING COMMITTEE HEARING AND
 OTHER RECENT ACTIVITY**

REDACTED

X000077

REDACTED

X000078

4. Senator Gramm.

Senator Gramm was initially pretty mild, merely urging the President to make all information public so that the country could move on to other issues.

It was during Mr. Gramm's questioning that Mr. Altman testified about his meeting at the White House approximately three weeks before the hearing. Mr. Altman stated that the meeting was procedural only, relating to the statute of limitations issue. Mr. Altman stated that he had requested the meeting because he had been answering questions from members of Congress about the procedural issues, and thought it only appropriate to provide the same information to the White House.

REDACTED

X000079

.

W.N.E.

TX000080



CHIEF OF STAFF

DEPARTMENT OF THE TREASURY
Washington

February 23, 1994

FOR: TODD STERN

FROM: Josh Steiner

Per our conversation.

REDACTED

X000081

Madison/Whitewater [See Fact Sheet # 23]:

When did the Board first know of the President's and Mrs. Clinton's involvement?	44
Did RTC OIG or GAO make reports to the Board regarding Madison/Whitewater?	45
What has the Board done to ensure that this affair is properly investigated?	46
Was the Board aware of RTC being requested to provide related information?	47
Did the Board discuss how the RTC should release this information?	48
Did the Board at any meetings discuss the Madison/Whitewater issues?	49
Will the Board proffer all communications with RTC, beginning with the investigation?	50
Would the Board provide the Committee any reports on this issue in RTC files?	51
Would the Board provide a copy of the Criminal Reference letter sent to DOJ?	52
Did RTC offer all documentation to appropriate Congressional Committee staff?	53
When did the RTC discover the President's and Mrs. Clinton's involvement?	54
When did the RTC refer this case to DOJ?	55
Was the referral made because of the President's and the First Lady's involvement?	56

X000082

FACT SHEET #23

PROCEDURES FOR HANDLING CRIMINAL REFERRALS**BACKGROUND:**

- o When criminal activity is suspected, the RTC is required to report those activities to U.S. Attorneys' offices and the FBI for investigation.
- o Decisions to make criminal referrals are the sole responsibility of the RTC.
- o Criminal referrals are not equivalent to prosecutable cases.
 - o Referrals frequently contain unverified allegations and rest upon suspicion of criminal misconduct.
 - o Referrals do not always contain criminal information sufficient to warrant opening a federal criminal investigation; do not always lead to discovery of evidence of criminal fraud, and do not always justify a prosecution.
- o The FBI and the U.S. Secret Service are involved in investigations of misconduct in failed thrift institutions after these agencies receive criminal referrals of suspected wrongdoing from the RTC.
- o If suspected activity violates a federal criminal statute, federal prosecutors may file formal charges against the defendant in federal court.

ROLE OF THE OVERSIGHT BOARD:

- o The Oversight Board does not have statutory authority to approve or disapprove case-specific matters such as criminal referrals.
- o The FIRREA Conference Report explicitly states that the Oversight Board will not be involved in or responsible for case-specific matters involving individual institutions.
- o The Oversight Board never has intervened in an RTC criminal referral.
- o The Oversight Board never has received a report from the Inspector General or the GAO regarding a specific criminal referral such as Madison/Whitewater nor are we aware that there is any type of pending report to be issued by the Inspector General or the GAO.
- o RTC policies and procedures for criminal referrals have never been criticized in Inspector General and GAO reports.

MADISON/WHITEWATER: OB KNOWLEDGE**Question:**

When did the Oversight Board first learn that the issue with Madison Guaranty S&L and Whitewater involved the President and Mrs. Clinton?

Answer:

- The Board has had no involvement in this issue.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: RTC, IG, OR GAO REPORTS TO BOARD**Question:**

The IG and GAO make reports to the Oversight Board regarding ongoing investigations. What did they report to you regarding Madison Guaranty S&L and Whitewater matters?

Answer:

- The issue was never brought to the Board's attention by the RTC, IG, or GAO.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: OB ACTION**Question:**

What has the Oversight Board done to assure that the Madison/Whitewater affair is properly investigated?

Answer:

- The Board has no authority to intervene and is not responsible, by law, for case-specific matters such as the RTC's criminal referral of specific cases.
- The Oversight Board has not been involved in any manner with RTC's investigation of this case.

[NOTE: The Board has no information suggesting that the RTC's policies regarding criminal referrals are being handled improperly.]

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: CONGRESSIONAL REQUEST FOR DOCUMENTATION

Question:

Was the Oversight Board aware of the Congress' request that RTC provide documentation and other materials related to Whitewater for review?

Answer:

- The Oversight Board only became aware of this request from press reports.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: OB ROLE IN RELEASE OF DOCUMENTATION**Question:**

Did the Oversight Board discuss how the RTC should release information on the Whitewater matter?

Answer:

- No.
- The Oversight Board has not been involved in any manner with RTC's investigation or handling of this case and has had no related discussions with RTC.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: DISCUSSIONS AT OB MEETINGS**Question:**

Did the Oversight Board at any of its meetings, including closed or executive sessions, discuss the Madison Guaranty S&L or Whitewater Issues?

Answer:

- No.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: COPIES OF OB TRANSCRIPTS & COMMUNICATIONS**Question:**

Will the Oversight Board make available to the Committee copies of all transcripts, minutes, or notes from its meetings or its communication with RTC during the period beginning with RTC's investigation of Madison Guaranty or Whitewater?

Answer:

- The Oversight Board has never discussed these matters with RTC or others including at any open or closed meeting of the Oversight Board.
- There are no records at the Oversight Board related to Madison Guaranty or Whitewater.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: EXAMINATION REPORTS**Question:**

Would you provide the Committee (or members of the Committee) any examination reports or supervisory reports on Madison Guaranty S&LA in RTC files?

Answer:

- The Oversight Board does not have copies of the reports.
- The Board has no information suggesting that the RTC's policies regarding criminal referrals or investigations are being handled improperly.
 - The Oversight Board has no immediately evident "oversight" basis on which to require the RTC to provide such reports to the Board.

[Mr. Altman would have the same answers as a member of the Oversight Board, but a different response to the initial question as RTC CEO.]

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: CRIMINAL REFERENCE LETTER**Question:**

Would you provide the Committee with a copy of the Criminal Reference letter sent to the Department of Justice by the RTC concerning Madison Guaranty S&LA, McCrory, Arkansas? If you do not have a copy would you please require the RTC to furnish a copy of the document to the Committee?

Answer:

- The Oversight Board does not have a copy of the document. (Criminal Reference Letter)
- The Oversight Board may require the RTC to provide documents only to the extent "necessary to carry out its oversight responsibilities."
- To our knowledge, the RTC's criminal reference policies and procedures are adequate and have not been criticized by such entities as the GAO or the RTC IG. We therefore have no "oversight" basis on which to make such a request of the RTC.

[Mr Altman would have the same answers as a member of the Oversight Board, but a different response to the initial question as RTC CEO.]

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: RTC COOPERATION

Question:

Did RTC make all documentation and material on the Whitewater matter available to the Congressional Committee staff charged with investigating this issue?

Answer:

- I would have to defer to Mr. Altman to answer that question.

MADISON/WHITEWATER: PRESIDENT'S ALLEGED INVOLVEMENT

Question:

When did RTC discover that President and Mrs. Clinton were involved in the Madison/Whitewater affair?

Answer:

- I would have to defer to Mr. Altman to answer that question.

MADISON/WHITEWATER: RTC REFERRAL TO DOJ

Question:

**Was the referral made because the President and First Lady were involved?
What other reasons were given for the referral?**

Answer:

- I would have to defer to Mr. Altman to answer that question.

NOTE: SEE FACT SHEET # 23

MADISON/WHITEWATER: RTC REFERRAL TO DOJ

Question:

When did RTC refer this case to the Justice department?

Answer:

- I would have to defer to Mr. Altman to answer that question.

NOTE: SEE FACT SHEET # 23

X000096

Madison/Whitewater

TABLE OF CONTENTS

I. RECUSAL

1. Why are You Unwilling to Recuse Yourself? 1
2. You Still Should Recuse Yourself, Why Don't You? 2
3. Doesn't Your Relationship with the President and Mrs. Clinton Require a Recusal? Isn't there the Appearance of a Conflict of Interest? 3
4. What Conversations Have You Had with The White House on this Matter? 4
5. Why did you brief the White House on those processes? . . . 5
6. Are you a close friend of the Clintons? 6
- 6a. Ricki Tigert chose to recuse herself. You didn't. What's different about the two cases? 6a

II. TREASURY

7. Have you issued any instructions to RTC staff on this investigation? What were they? 7
8. Have other Treasury officials been involved in Madison discussions? 8
9. What discussion with RTC staff have you personally had on Madison? 9
10. Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC. 10
11. What discussions on it have you had with Secretary Bentsen? 11
12. What has he said to you about the Madison investigation? 12

III. CONTACTS WITH DOJ/FISKE

13. Has Justice told RTC what it can/cannot tell Congress regarding Madison? 13
14. Has RTC been contacted by Independent Counsel Robert Fiske? Has Secretary Altman participated in these conversations? 14
15. Tell us about the documents which the RTC provided to Fiske. 15
16. What is the RTC doing to get those documents back? . . . 16
- 16a. How could the RTC make its decision without access to those documents? 16a

X000097

IV. ROSE LAW FIRM

- 17. Has RTC investigated the Rose Law Firm for conflicts? . . .17
- 18. Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater? 18

V. INFORMATION TO CONGRESS

- 19. Why is RTC refusing to provide documents to the Committee? Haven't you refused to provide documents to Committee Members? 19
- 20. As a Minority Member of this Committee, I'm requesting documents. As Chairman, I'm requesting documents. I insist. 20
- 21. Background on providing material to Congress21
- 22. Why is RTC's position on Congressmen making info request that they have the standing of an average citizen? 22

VI. CRIMINAL REFERRALS

- 23. How many criminal referrals were made by RTC relating to Madison? When were they made? 23
- 24. What were the internal RTC processes which led to the decision in October to refer this to the Justice Department? 24
- 25. Who was involved in that decision? 25

VII. MADISON HISTORY

- 26. When did the RTC first turn its attention to Madison? . . 26
- 27. Who in the RTC was involved at the beginning? 27
- 28. When did the Madison matter first come to the attention of the RTC's Washington office? 28
- 29. Why was the statute of limitations in this matter originally permitted to lapse? 29
- 30. Who made the decision to permit that? 30

VIII. MADISON INVESTIGATION

- 31. Why has it been five years since Madison failed and no civil actions have been filed, yet many criminal referrals were made? 31
- 32. Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons? 32
- 33. What would the RTC have done on Madison if the Feb. 28 deadline had not been extended? 33
- 34. What is the RTC doing at this very moment to reach a decision on a civil claim? 34
- 35. Who at the RTC is doing the work? 35
- 36. When will a decision be reached? 36

X000098

37. What is being done to safeguard the RTC documents on this case? 37
38. If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.? 38
39. In light of the problems with RTC PLS, why do you think that it can adequately investigate the Madison claims? . . 39

IX. EXTENSION OF STATUTE OF LIMITATIONS

40. Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act? 40
41. Did Madison Guaranty matters enter into that decision? . 41
42. What is the RTC doing to ensure that claims for which the statute of limitations has been extended are being investigated? 42

X. PRIOR REGULATORY HISTORY

43. When did Madison Guaranty collapse? 43
44. Who made the decision to put Madison into conservatorship? 44
45. Tell us about the federal oversight of Madison before the collapse. 45
46. Why was McDougal permitted to loot the institution the way he did? 46
47. Wasn't that a dereliction of oversight? Who was responsible? 47

XI. SPECULATION ON CLINTONS

48. Do you think that The President and/or Mrs. Clinton have broken any laws in this matter? 48
49. Have they acted in an ethical fashion? 49
50. Aren't there, at the very least, appearance of impropriety on their part? 50
51. What should be done if it is ultimately determined that laws were broken? 51
52. Has anyone at the RTC spoken to The President's attorney in this matter? Who has had that conversation? 52

XII. OVERSIGHT BOARD

53. Will the Oversight Board play any role at all in RTC decisions on Madison? 53

X000099

XIII. CRAVATH

54. Why did the RTC pay such huge fees, some as high as
\$600 an hour, to the law firm of Cravath, Swain
& Moore? 54

207

X000100

X000101

I. RECUSAL

X000102

1

Question:

Why are You Unwilling to Recuse Yourself?

Answer:

First, your obvious point is that I should not play any role in the RTC's eventual decision to pursue a civil claim, or not pursue one, in the Madison Guaranty matter. Well, I will not be doing so.

My appointment as interim CEO under the Vacancy Act expires on March 30, 1994. I will have no role with the RTC beyond that date. The RTC General Counsel has advised me that any recommendations she makes on Madison Guaranty will not be formulated before that time. I will, therefore, have no role in the RTC's decisions on the matter.

Question:

You Still Should Recuse Yourself. Why Don't You?

Answer:

As I said, the point is moot. I'll have no role in any RTC decisions on pursuing a civil claim in the Madison matter.

Also, I consulted both with the relevant RTC ethics officer and with the relevant Treasury ethics officer.

Both ethics officers advised me that there was no requirement for a recusal in this matter. The specific statutes and regulations involved do not define this as a case requiring recusal.

Both ethics officers also advised me that any decisions on recusal normally would be made when a matter is ready for decision. The Madison matter, as I've said, is not ready.

But, most of all Senator, the circumstances are such that I'll not be playing any role.

Doesn't Your Relationship with the President and Mrs. Clinton Require a Recusal.
Isn't there the Appearance of a Conflict of Interest?

First, as I said, I'll not be playing any role in this matter. There won't be, therefore, any appearances of a conflict.

Second, I'm playing no role whatsoever right now in the RTC's investigation of this case. I've seen no documents. I've had no conversations at all on where the investigation stands. I have no idea what recommendations the General Counsel will reach. They will be completed after I've left.

Third, I might point out that the RTC referred this matter to the Justice Department for possible criminal review last October. I was also interim CEO at that time.

I was advised at that time that such a review was being conducted and that a decision on referral to Justice would be made. As certain Treasury and RTC officers will attest, I took the position that normal procedures should be followed. If such a decision on referral was typically made at the regional office level, my view was that it should be made that way in this matter.

What Conversations Have You Had with the White House on this Matter?

I've had on substantive conversation. Approximately three weeks ago, Jean Hanson (Treasury General Counsel) and I requested a meeting with Mr. Nussbaum, White House Counsel.

The purpose of the meeting was to describe the procedural reasons for the then impending February 28 deadline: the Completion Act, the statute of limitations was retroactively reinstated for certain types of civil claims (those relating to fraud and certain claims relating to intentional misconduct); as it related to Madison Guaranty, it would expire the end of February. Finally, if the RTC were to determine that any such claims existed, the RTC would have to determine whether to seek a tolling agreement or commence litigation.

We made clear that we had no idea at all what decision would be reached. I did say, however, that if I received a clear recommendation from the RTC's chief legal officer, I would follow it. I also said that I was reserving judgment on a recusal.

We were only asked one question. Did the RTC intend to provide the same briefing on the RTC's processes to attorneys for the parties in interest. I said that I assumed so but would check with the RTC General Counsel.

Jean Hanson did check and was told "in due course." "I said fine".

Why did you brief the White House on those processes?

Solely to ensure that they understood the legal, procedural framework within which the RTC was working. (If you recall, at that time the February 28 date was the subject of major attention in the Congress and the press.) It is not uncommon for meetings of this type to take place. The meeting could have taken place between the lawyers; this was simply a legal briefing with a larger audience.

Who else attended that meeting?

Mr. Ickes, Ms. Williams and one of Mr. Nussbaum's assistants.

Were there any other conversations at all?

The only other discussion -- which lasted about five minutes -- occurred later when I indicated that I was not inclined towards a recusal.

Has the White House attempted to influence your decision on these matters?

No. It is understood that the RTC must complete the task that it has been given and, of course, the White House respects the independence of the RTC.

Have you attempted to influence the RTC's review of the Madison Guaranty matter or the outcome of its decision?

No.

Why did the Treasury General Counsel accompany you and not the RTC General Counsel?

We discussed only the broad procedural framework of the statute of limitations issue and the presence of the RTC General Counsel was not necessary. No specifics were, or were intended to be, discussed.

6 X000107

Are you a close friend of the Clintons?

I know them well, yes. Am I one of their very closest circle? No.

Do you consider yourself a FOB?

Yes, as I understand that term to be used.

Do you think your relationship with the President should disqualify you from playing any role in Madison?

As I said, I won't be playing any role and the question is moot, if I were to be playing a role my answer would be no. When the issue of referring this to Justice arose, my position was that all the normal procedures should be followed. In that case, such decisions are often made by regional offices and my view was that nothing should be different.

That would be my stance on Madison. If I received a truly clear recommendation on it from the chief legal officer, I'd almost certainly follow it.

I've never played favorites on sensitive matters, let alone one of this sensitivity, and I wouldn't do so here.

X000108

6a

Ricki Tigert chose to recuse herself. You didn't, what's different about the two cases?

I can't comment about Ricki Tigert's decision. I haven't discussed it with her. I don't know the FDIC procedures which pertain to it. It's not my role to speculate on her decision.

X000109

X000110

II. TREASURY

X000111

WHITEWATER/MADISON:

Question:

Have you issued any instructions to RTC staff on this investigation? What were they?

Answer:

Other than to advise the Deputy CEO and the General Counsel of the RTC that I expected that all standard procedures would apply to the RTC's handling of this matter, I have issued no instructions.

X000112

WHITEWATER/MADISON: TREASURY INVOLVEMENT

Question:

Have any other officials of the Treasury Department been involved in any substantive discussions relating to the RTC's handling of Madison or related matters?

Answer:

-- I and a very limited number of my Treasury staff have been briefed generally by RTC staff on a variety of issues related to the RTC's review of the Madison matter. Topics include:

-- RTC procedures related to document requests including the types of information that are releasable in the ordinary course to members of the public, members of the Congress acting in their individual capacity and as a Committee of the Congress;

-- a general discussion of the causes of action that might be available to the RTC that fall within the extension of the statute of limitations contained in the RTC Completion Act;

-- the normal criteria applied by the RTC in seeking an Authority to Sue, tolling agreements with potential defendants, etc.; and,

-- the applicable statute of limitations and a chronology of the Madison matter beginning in 1989 with the seizure of the institution by the FDIC, the expiration of the FIRREA statute of limitations in 1992 and the revival of certain types of actions under the Completion Act and the further extension via the California Earthquake Relief Act;

-- During my service as the Interim CEO of the RTC I have had members of my Treasury staff sit in on a variety of briefings and discussions related to RTC matters. For instance, since I was appointed Interim CEO of the RTC I and members of my Treasury staff have had a standing Tuesday luncheon involving senior members of RTC including the Deputy CEO, the General Counsel and the Senior Vice President for Minority and Women's Business. Topics discussed during the course of these regular meetings include the implementation of the recently approved Completion Act.

-- No discussions of the actual decisions to be made by the RTC as to whether any claims exist and should be pursued against specific persons in connection with Madison have been held by me or other Treasury staff.

220

X000113

,

WHITEWATER/MADISON:

Question:

What discussion with RTC staff have you personally had on Madison?

Answer:

See Response to "Treasury Involvement" [Now at p. 2]

X000114

WHITEWATER/MADISON:

Question:

Why has the Treasury General Counsel been so active in this whole matter? She has no responsibilities at the RTC.

Answer:

The Treasury General Counsel to my knowledge has not been active in the Madison matter. The RTC's General Counsel has been directing its efforts and has counseled me about the procedures being followed in the investigation.

WHITEWATER/MADISON:

Question:

What discussions on it have you had with Secretary Bentsen?

Answer:

I have had no substantive discussions of Madison with Secretary Bentsen. I did inform him generally of the process the RTC was undertaking concerning Madison as a result of the expansion of the statute of limitations in the Completion Act.

WHITEWATER/MADISON:

Question:

What has he said to you about the Madison investigation?

Answer:

Nothing.

X000117

X000118

III. CONTACTS WITH DOJ/FISKE

X000119

WHITEWATER/MADISON: JUSTICE DEPARTMENT

Question:

Has the Justice Department told the RTC what it can and cannot tell the Congress in matters relating to Madison Guaranty?

Answer:

-- Consistent with established practice, RTC staff has had discussions with the Justice Department prior to the appointment of the Special Counsel as to the release of information which may hamper or affect the investigation of matters in which the RTC has information or an interest.

-- RTC staff's discussions with the Justice Department and Special Counsel Fiske have involved issues such as coordination of the respective agency's investigations so as to not unduly delay or prejudice the possible prosecution of various claims or actions.

-- [Insert here any possible talking point related to the Klinger letter and response from the Treasury -- talk with Dennis Foreman first thing Tuesday!!]

X000120

WHITEWATER/MADISON: INDEPENDENT COUNSEL

Question:

Secretary Altman, has the RTC been in contact with the Special Counsel Robert Fiske? Have you participated in these conversations?

Answer:

-- I understand that there have been several telephone conversations with Mr. Fiske and his staff and Deputy CEO Jack Ryan as well as members of the RTC legal staff regarding various procedural matters.

-- I have not participated in any of those discussions.

X000121

15

WHITEWATER/MADISON:

Question:

Tell us about the documents which the RTC provided to Mr. Fiske.

Answer:

The RTC is cooperating fully with the Independent Counsel. Any discussion of information on documents received by him should be addressed to him.

WHITEWATER/MADISON:

Question:

What is the RTC doing to get those documents back?

Answer:

The RTC maintains copies of any documents in its possession which it has provided to the Independent Counsel.

X000123

16a

WHITEWATER/MADISON:

Question:

How could the RTC make its decision without access to those documents?

Answer:

The RTC is going to investigate the facts, and seek all documents which are relevant. Obviously it wants to make litigation decisions on the best information in existence. That is not always possible and to the extent the RTC is unable to obtain material information the effectiveness of its investigation any any subsequent litigation could be impaired.

X000124

X000125

IV. ROSE LAW FIRM

X000126

17

WHITEWATER/MADISON: ROSE LAW FIRM

Question:

Secretary Altman, has the RTC investigated the Rose Law firm and whether or not it correctly represented possible conflicts when soliciting business with the RTC? Have you recused yourself from this matter?

Answer:

-- The FDIC, as exclusive agent for the FSLIC, was the original conservator of Madison and as such, retained the Rose law firm. As you know the FDIC has investigated the circumstances arising out of that relationship and has released the report. Perhaps Acting Chairman Hove might like to briefly expand upon the report.

-- I understand that the General Counsel received a report prepared by the RTC Office of Contractor Oversight. The report was presented to the FDIC during its investigation of the Rose Law Firm. The General Counsel has also advised me that the report does not contradict the information reviewed and the conclusions reached by the FDIC.

X000127

WHITEWATER/MADISON:

Question:

Are you aware of the connections between the Rose Law Firm and Madison and/or Whitewater?

Answer:

I only know what I read in the newspapers.

X000128

X000129

V. INFORMATION TO CONGRESS

QUESTIONS RELATED TO WHITEWATER/MADISON**Question:**

Why is the RTC refusing to provide information about Madison and Whitewater to this Committee?

Answer:

-- At the present time the RTC has not received a request from this Committee and is cooperating to the fullest extent possible under the law with the investigations by individual members (Rep. Leach/Sen. D'Amato).

Question:

Haven't you refused to provide specific information to members of the Committee (Rep. Leach/Sen. D'Amato) and their staffs which they have advised you is extremely important to their carrying out of their duties?

Answer:

-- To date the RTC has not received a request from the Committee for any documents. Absent a request from the Committee, the RTC is limited in what it can provide to individual Members of Congress in the following areas:

- Information regarding the personal and corporate financial records in its possession;
- Information relating to criminal investigations;
- Information which is privileged; and,
- Material relating to possible civil litigation.

-- Release of these types of information to individual Members of Congress could jeopardize the governments's ability to bring and subsequently prosecute both civil and criminal matters. [In addition, the release of certain information could be a violation of the Privacy and Trade Secrets Act that in turn would lead to possible liability to the government official responsible for their release.][Check with Binkley]

Follow up:

As a Committee member (Minority Member) and as participant in this hearing, I am formally requesting that you supply the material previously requested (by Rep. Leach/Sen. D'Amato).

Answer:

-- The RTC is in something of an awkward position and would request that clarification be provided the RTC by the Committee Chair as to whether a request during the hearing from an individual member constitutes a formal request by the Committee as part of this hearing.

Follow up:

As the Chairman of this Committee (Chairman Riegle/Chairman Gonzalez), I am requesting that you provide the information requested to the majority and minority staffs of this Committee.

Answer:

-- The Justice Department and the Special Counsel, Mr. Fiske, has requested that with respect to Madison, the RTC make no information available about criminal referrals without its consent. The RTC, in addition to its obligations to comply with the law is deeply concerned about the provision of information which could have a negative impact on its investigation or litigation of any matter.

Follow up:

I insist.

Answer:

-- Mr. Chairman, the RTC will respond as to its position on this request expeditiously after consultation with the Special Counsel and the Justice Department.

-- May I reiterate the RTC's concerns about possible negative affects on our investigation. I would also request on behalf of the RTC that appropriate safeguards be implemented after consultation with the staff of the Committee to protect the confidentiality of information and to preserve the privileged nature of any information which might be disclosed.

Background:

-- The RTC's policy with respect to this type of matter is a non-partisan one. The RTC has treated Democrats similarly to Republicans. The RTC has previously provided privileged information to Congressional Committees with safeguards such as a promise of confidentiality or under threat of subpoena which protects the agency from a claim that its privileges have been waived by disclosure to Congress. For example, the RTC has disclosed:

-- Information regarding Southwest Savings litigation requested by a majority member of the Senate Banking Committee. The information was disclosed only after the RTC received a {written} promise of confidentiality from the {Committee};

-- Information regarding Homefed requested by the majority of the House Banking Committee. The Chairman of the Committee, in writing threatened to issue a subpoena for the requested material;

-- Information protected by the Privacy Act requested by a majority member of the House Subcommittee on Civil Service (Rep. Schroeder) was denied originally and released only after a promise of confidentiality by the Chairman of the Subcommittee.

-- In the absence of such safeguards, the RTC would have to consider all its options in order to avoid jeopardizing its statutory obligations.

WHITEWATER/MADISON: CONGRESSIONAL REQUESTS FOR INFORMATION

Question:

Why has the RTC taken the position that an individual member of Congress only has the standing of an average citizen when making requests of the agency for information? Isn't it true that there is a certain amount of flexibility in interpreting the law regarding this question? Mr. Altman, were you involved in this decision? Were any other Treasury officials involved in this decision?

Answer:

-- The request of individual members of Congress for information is not a new issue. This issue has been raised on numerous occasions involving many executive agencies. The RTC is not charting new waters here.

-- The RTC has taken the position that requests for information from individual members of Congress, as contrasted with requests from Congressional Committees, have the same standing as FOIA requests and are subject to the same exceptions. There is no credible legal theory or authority to the effect that the law is otherwise.

-- Providing privileged information to an individual member of Congress would likely waive all applicable privileges and could also result in other violations of FOIA.

-- Our position is consistent with that of other agencies and of the Department of Justice.

-- We are most concerned that we not take steps which would impair the RTC's and the Special Counsel's ability to carry out their responsibilities or violate relevant law.

-- At the same time, the RTC has provided individual members of Congress with significant amounts of documentation and information within the limitations which I have described and it will continue to cooperate to the fullest extent possible.

-- The decisions made with respect to information which may appropriately be disclosed have been made by the staff of the RTC alone in accordance with normal agency procedures.

X000134

X000135

VI. CRIMINAL REFERRALS

WHITEWATER/MADISON: CRIMINAL REFERRALS

Question:

How many criminal referrals were made by the RTC relating to Madison? When were they made? Could you provide a copy of these referrals to the committee?

Answer:

-- It is the policy of the RTC not to discuss criminal referrals on an institution specific basis;

-- All questions concerning criminal investigations should be directed to the Justice Department, and in the case of Madison Guaranty to Special Counsel Robert Fiske.

-- The bank regulators and the RTC strongly encourages the early detection of suspected criminal activity. Therefore in order to provide for the free flow of information and the encouragement of such reports the contents of investigative reports must be protected against disclosure.

-- In recognition of their sensitive status, completed Criminal Referral forms are protected from disclosure under the Freedom of Information Act, and the litigation discovery process and are subjected to the provisions of the Privacy Act.

WHITEWATER/MADISON:

Question:

What were the internal RTC processes which led to the decision in October to refer this to the Justice Department?

Answer:

It is standard RTC practice to review institutions for criminal activity sometimes even after the statute of limitations on civil claims has expired and to make criminal referrals where warranted. Those reviews are conducted in RTC field offices and referrals are made directly from the field offices to the appropriate U.S. Attorney's office.

It is the policy of RTC Investigations to make criminal referrals where there is a reasonable basis to believe that a crime has been attempted or committed.

X000138

25

WHITEWATER/MADISON:

Question:

Who was involved in that decision?

Answer:

Referrals are made by the Criminal Coordinator working for RTC's Investigations unit in the field office. The referral would have been made directly to the appropriate U.S. Attorney's office without prior review in Washington.

X000139

X000140

VII. MADISON HISTORY

WHITEWATER/MADISON:

Question:

When did the RTC first turn its attention to Madison?

Answer:

The RTC became responsible for resolving Madison's affairs on August 9, 1989.

WHITEWATER/MADISON:

Question:

Who in the RTC was involved at the beginning?

Answer:

From February 1989 to August 1989, scores of FDIC staff and supervisors were involved in disposing of assets, evaluating claims of creditors, and investigating and pursuing professional liability claims. Through a process which began in August of 1989, RTC personnel gradually took over these responsibilities. Throughout most of 1990, the FDIC maintained one Legal Division to represent both the RTC and FDIC. The RTC Professional Liability Section ("PLS") (responsible for investigating and pursuing claims against former directors, officers, accountants, attorneys, appraisers, and brokers of failed financial institutions, as well as against insurance companies who provide coverage to such individuals and firms) remained a branch of the FDIC PLS until January 1991.

X000143

28

WHITEWATER/MADISON:

Question:

When did the Madison matter first come to the attention of the RTC's Washington office?

Answer:

Neither the FDIC nor RTC PLS employed staff in field offices until the Spring of 1991. Consequently, professional liability attorneys responsible for Madison have always been located in Washington. On the other hand, in-house investigators have been located in various field offices over the years. Personnel responsible for other functions of the conservatorship and receivership have been located in various field offices. All field offices work under the supervision of headquarters in Washington. Different "Madison matters" have come to the attention of the RTC's Washington office at different times.

WHITEWATER/MADISON:

Question:

Why was the statute of limitations in this matter originally permitted to lapse?

Answer:

The original statute of limitations for director and officer and other professional liability claims was not "permitted to lapse". No statutes of limitations for PLS matters in thrifts under RTC control were permitted to expire without either filing appropriate civil actions, settling claims prior to filing or reaching a decision to close investigations because the dual criteria of viable and cost-effective claims could not be met. The decision not to pursue claims against former officers, directors, attorneys and appraisers for Madison was based on these factors. Madison filed suit against Frost and Co., its accountants, in 1988, and the government continued to pursue these claims. In 1991, the RTC settled with Frost.

X000145

30

WHITEWATER/MADISON:

Question:

Who made the decision to permit that?

Answer:

The investigations into all Madison professional liability matters, other than the audit failure case against Frost & Co., were closed by officials in the FDIC Legal Division responsible for RTC matters and by officials in the RTC Office of Investigations.

The settlement of the audit failure case was approved by officials in the FDIC Legal Division responsible for RTC matters and by business side officials of the RTC.

X000146

X000147

VIII. MADISON INVESTIGATION

X000148

WHITEWATER/MADISON: CIVIL ACTIONS**Question:**

Why has it been almost five years since Madison failed and no civil action has been taken while many criminal referrals have been made?

Answer:

-- While an in-depth response concerning the actions taken by the RTC in connection with Madison must await a later date, let me provide you with a review of significant events:

-- The original statute of limitations for Madison civil claims expired in early 1992;

-- Before that date, the FDIC and subsequently the RTC pursued a civil claim against Madison's former auditors this case was originally filed by Madison (the institution) prior to its failure and was successfully settled. Certain other litigation was also pursued.

-- Despite the fact the statute of limitations for civil claims had expired in early 1992, the RTC has continued to assess Madison, as well as other institutions, as to whether criminal referrals should be made since the statute of limitations period for criminal charges is longer.

-- With the enactment of the RTC Completion Act in December 1993, the statute of limitations was renewed with respect to a limited class of civil actions.

-- The statute of limitations with respect to those civil actions extended in December 1993 was again extended as part of the recently enacted California Earthquake Relief Act. The statute of limitations expires on December 31, 1995.

-- The review of whether any civil claims relating to Madison as well as other institutions are sound and cost effective is underway.

WHITEWATER/MADISON:

Question:

Has the RTC ever uncovered any ties between Madison and Whitewater, or Madison and the Clintons?

Answer:

Since these matters are under investigation, it would be inappropriate to comment on them at this time. Discussing specific information could materially impair both the civil and criminal investigations which are underway.

WHITEWATER/MADISON:

Question:

Had Congress not just extended these limitations, what would the RTC have done on Madison before the Feb. 28 deadline?

Answer:

RTC has assigned a team of senior, experienced PLS attorneys in its Washington, D.C. office to work on the Madison matter. These attorneys, working under the close supervision of Legal Division managers, are conducting the investigation with the assistance of outside counsel, and a team of RTC investigators based in Kansas City and Washington. Although it would not have been easy to complete this investigation in the time originally allotted in the RTC Completion Act, RTC was prepared to take the necessary steps to do the best job possible.

WHITEWATER/MADISON:

Question:

What is the RTC doing at this very moment to reach a decision on a civil claim?

Answer:

Beginning in January 1994, the RTC commenced a new investigation of the claims revived by the Completion Act. It assembled a team of experienced in-house attorneys supervised by a Senior Counsel and Legal Division managers. Further, we hired outside counsel to represent us. We expect to make decisions about pursuing revived claims during 1994.

WHITEWATER/MADISON:

Question:

Who at the RTC is doing that work?

Answer:

Beginning in January 1994, the RTC commenced a new investigation of the claims revived by the Completion Act. It assembled a team of in-house attorneys supervised by a Senior Counsel and Legal Division managers. Further, we hired outside counsel to represent us. We expected to make decisions about pursuing revived claims during 1994.

WHITEWATER/MADISON:

Question:

When will a decision be reached?

Answer:

I have been advised that the staff anticipates that decisions on pursuing specific claims should be made in 1994.

WHITEWATER/MADISON:

Question:

What is being done to safeguard the RTC documents on this case?

Answer:

I don't have any specific information about this.

X000155

WHITEWATER/MADISON:

Question:

If the RTC were to file a claim in court against the Clintons, how would that work? What would the RTC seek, etc.?

Answer:

The RTC would follow its normal procedures if it decides to file a claim against anyone. I have instructed the RTC to handle this matter like it would any other.

WHITEWATER\MADISON:

Question:

In light of the problems with RTC PLS, why do you think that it can adequately investigate the Madison claims?

Answer:

As I said in my testimony, we have made great progress in addressing the problems which have been identified with RTC PLS. First of all, we have greatly strengthened our management team with the recent appointment of Ellen Kulka, a very knowledgeable attorney in PLS matters, as the General Counsel of the agency. Many of the problems with PLS had to do with inadequate numbers of experienced staff, and I have taken steps to address these problems. RTC PLS now has the largest number of attorneys in its history, and I recently approved the creation of 4 new managerial positions to improve oversight of cases and investigations. The naming of an Assistant General Counsel for professional liability, pursuant to the RTC Completion Act, with responsibility for supervising both legal staff and investigative personnel in this area, will also improve coordination between these units. In fact, the oversight of the Madison investigation, involving a team of experienced PLS attorneys and investigators, working closely with outside counsel, is an example of these improvements.

X000157

X000158

IX. EXTENSION OF STATUTE OF LIMITATIONS

WHITEWATER/MADISON:

Question:

Why did the Clinton Administration oppose a retroactive extension of the statute of limitations in the RTC Completion Act?

Answer:

- The Treasury did not oppose the RTC Completion Act's extension of the statute of limitations.
- The Administration's proposed legislation to fund the completion of the RTC in March 1993 did not contain a provision to extend the statute of limitations.
- The GAO did a study of the RTC PLS program in response to charges that PLS cases were politicized and that there were instances of precipitous filings of PLS cases because of expiring statute of limitations. The GAO study found no evidence of PLS case politicization or instances of preemptive filings because of expiring statute of limitations.
- Given the GAO study's conclusion, the need for an extension of the statute of limitations was questionable.
- During Congressional consideration of provisions to be included in this legislation, Treasury was asked for its views on an extension of the statute of limitations. While we did not support the provision, we did not express any opposition.

WHITEWATER/MADISON:

Question:

Did Madison Guaranty matters enter into that decision?

Answer:

No.

X000161

STATUTE OF LIMITATIONS EXTENDER**Question:**

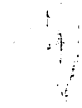
What is the RTC doing to ensure that claims for which the statute of limitations has been extended are being investigated?

Answer:

As a result of the extension of the statute of limitations for some types of RTC civil claims by the RTC Completion Act, as amended by the California Earthquake Relief Act, to December 31, 1995, the agency is able to take a further look at certain claims. For institutions where the original 3 year FIRREA limitations period had expired by December 17, 1993, only those claims involving fraud or intentional misconduct were affected by the extension. For institutions where the original three year period had not expired, the extension also applied to claims involving gross negligence or conduct evidencing a greater disregard of duty.

The due diligence procedures on those institutions in which claims were revived will be overseen by PLS and Investigations supervisors who will work with staff and identify those institutions which are the best candidates for more extensive review. Planning is also underway to establish joint coordinating teams from PLS and Investigations.

X000162



X000163

X. PRIOR REGULATORY HISTORY

WHITEWATER/MADISON:

Question:

When did Madison Guaranty collapse?

Answer:

Madison Guaranty Savings was declared insolvent and placed in conservatorship on February 28, 1989. The Federal Home Loan Bank appointed the Federal Savings and Loan Insurance Corporation ("FSLIC") to serve as Madison's conservator. By agreement between the FSLIC and the Federal Deposit Insurance Corporation ("FDIC"), the FDIC immediately became the Managing Agent for the Madison conservatorship. The FDIC managed the conservatorship until ("FIRREA") was signed into law on August 9, 1989. The FDIC remained the managing agent for the RTC until the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 became effective in December of 1991.

WHITEWATER/MADISON:

Question:

Who made the decision to put Madison into conservatorship?

Answer:

The Federal Home Loan Bank Board.

WHITEWATER/MADISON:

Question:

Tell us about the federal oversight of Madison before the collapse.

Answer:

Madison was regulated by the Federal Home Loan Bank Board, the predecessor agency to the Office of Thrift Supervision. Any questions about regulation of Madison before its collapse should be addressed to OTS.

WHITEWATER/MADISON:

Question:

Why was McDougal permitted to loot the institution the way he did?

Answer:

I have no specific information about the operation of Madison in the 1980's.

WHITEWATER/MADISON:

Question:

Wasn't that a dereliction of oversight? Who was responsible?

Answer:

The RTC does not and did not regulate financial institutions and therefore I am not in a position to respond.

276

X000169

X000170

XI SPECULATION ON CLINTONS

WHITEWATER/MADISON:

Question:

Do you think that the President and/or Mrs. Clinton have broken any laws in this matter?

Answer:

In my role as Interim CEO of the RTC, it is inappropriate for me to speculate.

WHITEWATER/MADISON:

Question:

Have they acted in an ethical fashion?

Answer:

As the interim CEO of the RTC I just cannot comment on this.

X000173

WHITEWATER/MADISON:

Question:

Aren't there, at the very least, appearances of impropriety on their part?

Answer:

As Interim CEO of the RTC, it would be most inappropriate for me to comment.

WHITEWATER/MADISON:

Question:

What should be done if it is ultimately determined that laws were broken?

Answer:

If the RTC's investigation determines that an individual has committed civil fraud, or intentional wrongdoing which resulted in substantial loss to the institution or unjust enrichment, then the RTC should do what is appropriate to recover from any such individual. As usual, any decision to seek a recovery must take into account the strength of the RTC's case and the cost effectiveness of any proposed litigation.

WHITEWATER/MADISON:

Question:

Has anyone at the RTC spoken to the President's attorney in this matter? Who has had that conversation?

Answer:

I do not know.

X 00176

X000177

XII OVERSIGHT BOARD

285

53

X000178

WHITEWATER/MADISON:

Question:

Will the Oversight Board play any role at all in RTC decisions on Madison?

Answer:

No.

X000179

X000180

XIII. CRAVATH

CRAVATH BILL**Question:**

Why did the RTC pay such high fees, some as high as \$600 an hour, to the law firm of Cravath, Swain & Moore?

Answer:

The legal services agreement with the Cravath firm was negotiated and executed on behalf of FDIC and RTC by officials of the FDIC Legal Division, prior to the separation of the RTC Legal Division. At the time work was performed for the benefit of the RTC in connection with this retention, the RTC was contractually bound by the terms negotiated with FDIC. Although the fees and expenses in connection with this representation, the investigation and prosecution of claims arising in numerous RTC and FDIC institutions against Drexel Burnham and Michael Milken, were quite high, the recoveries from the Milken settlement alone are over \$400 million.

REDACTED

X700182

TELEPHONE CALLS

JOHN D. PODESTA

Date

Mar 4

TIME	NAME	MESSAGE	TELEPHONE NO.
------	------	---------	---------------

REDACTED

X000183

TELEPHONE CALLS

JOHN D. PODESTA

Date

Mar 2

TIME	NAME	MESSAGE	TELEPHONE NO.
12:30	Josh Steiner		622 0016

REDACTED

X000184

TELEPHONE CALLS

JOHN D. PODESTA

Date

3-1

TIME	NAME	MESSAGE	TELEPHONE NO.
------	------	---------	---------------

7:39	✓ Josh Steiner
------	-------------------

622 0016

REDACTED

X000185

TELEPHONE CALLS

JOHN D. PODESTA

Date

3/1

TIME	NAME	MESSAGE	TELEPHONE NO.
5:39	Roger Altman	RYC	622 1070

6:00	Tosh Steiner		622-0016

EXTRACTED

XU00186

TELEPHONE CALLS

JOHN D. PODESTA

Date

Mar 1

TIME	NAME	MESSAGE	TELEPHONE NO.
1:45	Ash Steiner		622 0016

ethical
Debris
review

REDACTED
TELEPHONE CALLS

X000188

JOHN D. PODESTA

Date Feb. 16

TIME	NAME	MESSAGE	TELEPHONE NO.
10:10	✓ Michael Leavy		622-1900
11:19	✓ Michael Leavy	✓	622-1900

REDACTED

X000189

TELEPHONE CALLS

JOHN D. PODESTA

Date

Feb. 17

TIME	NAME	MESSAGE	TELEPHONE NO.
1:35	Mike Leavy		622 1900
	Tim Hirsch R-H	775-7981	

REDACTED

X000190

TELEPHONE CALLS

JOHN D. PODESTA

Date Feb. 18, 1994

TIME	NAME	MESSAGE	
------	------	---------	--

2

2:21	Mr. Levy	As can back	622-1400
------	----------	-------------	----------

2

REDACTED

X000192

TELEPHONE CALLS

JOHN D. PODESTA

Date

2.23

TIME	NAME	MESSAGE	TELEPHONE NO.
6:55 ✓	JOSH Slower	wcB	

(5/22 or 5/23)

TELEPHONE MESSAGES

John D. Podesta

Date: _____

X000193

TIME	NAME	MESSAGE	PHONE #
10:16 ✓	Josh Steiner	R	622- 5016

00 000 000

REDACTED

X000194

TELEPHONE CALLS

JOHN D. PODESTA

Date 2-23

TIME	NAME	MESSAGE	TELEPHONE NO.
7:35	Ish Stein		622 0016

X000195

REDACTED
TELEPHONE MESSAGES

John D. Podesta

Date: 2-24

TIME	NAME	MESSAGE	PHONE #
6:51 pm	Josh Steiner		622- 0016

REDACTED 2/28? X000196
TELEPHONE MESSAGES

John D. Podesta

Date: _____

TIME	NAME	MESSAGE	PHONE #
------	------	---------	---------

✓	✓ Josh Steiner		622-0016
---	----------------	--	----------

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON

X000197

REDACTED

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE. If the reader of this message is not the intended recipient or an employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

FAX COVER SHEET

Date :

3/4/94

To :

DISTRIBUTION

Fax # :

From :

Roger C. Altman

Number of pages - including this cover page

2

Message :

DISTRIBUTION: DEE DEE MYERS

MARK GEARAN

DAVID GERGEN

GEORGE STEPHANOPOLIS

HAROLD ICKES

MACK McLARTY

Please call 202/ 622-0402 if you do not receive all pages

Mr. Altman's private fax number is : 202/ 622-0404

**RESOLUTION TRUST CORPORATION**Resolving The Crisis
Restoring The Confidence

X000198

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

Roger C. Altman

ID # 055375 CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET X000199

☐ O - OUTGOING☐ H - INTERNAL☒ I - INCOMINGDate Correspondence Received (YY/MM/DD) 94103107Name of Correspondent: James A. Bush☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Guidelines on ethics related to the Altman/White House meetings

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CH NUS</u>	RL	<u>94103107</u>	RL	<u>C</u>	<u>99102107</u>
<input checked="" type="checkbox"/> <u>CH AT04</u>	RL	<u>94,0307</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>
		<u>1 1</u>			<u>1 1</u>

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

SCANNED

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

X000200

05557500

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
 STEPHEN L. REAL, NORTH CAROLINA
 JOHN J. LAFALCE, NEW YORK
 BRUCE A. VENTO, MINNESOTA
 CHARLES E. SCHUMER, NEW YORK
 BARNEY FRANK, MASSACHUSETTS
 PAUL E. KANJORSKI, PENNSYLVANIA
 JOSEPH P. KENNEDY II, MASSACHUSETTS
 FLOYD M. PLASE, NEW YORK
 STEVEN M. SAVARESE, MARYLAND
 MAURIE WATERS, CALIFORNIA
 LARRY LAROCHE, IDAHO
 BILL ORTON, UTAH
 JIM SACCHIE, FLORIDA
 HERBERT C. ELLER, NEW JERSEY
 CAROLYN B. MALONEY, NEW YORK
 PETER DEUTSCH, FLORIDA
 LUIS V. GUTIERREZ, ILLINOIS
 BOBBY L. RUSH, ILLINOIS
 LUCILLE ROYBAL-ALLARD, CALIFORNIA
 THOMAS H. BARNETT, WISCONSIN
 ELIZABETH FURIE, OHIO
 RYAN M. VELAZQUEZ, NEW YORK
 ALBERT R. WYNN, MARYLAND
 CLAO FELDMAN, LOUISIANA
 MELVIN WATT, NORTH CAROLINA
 BALANCE HINCHET, NEW YORK
 CALVIN M. BOOLEY, CALIFORNIA
 RON KLIME, PENNSYLVANIA
 ERIC PROSSNIT, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-6050

March 1, 1994

JAMES A. LEACH, IOWA
 BILL MCCOLLUM, FLORIDA
 GABRIEL GONZALEZ, NEW JERSEY
 BOB D. HENRIKSEN, NEBRASKA
 THOMAS WILCOX, PENNSYLVANIA
 TONY ROTH, WISCONSIN
 ALFRED A. BUCAMMERS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM RUSSELL, IOWA
 CRAIG THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 DEBORAH FYVCE, OHIO
 JOHN LINDELL, GEORGIA
 JOE KROLLWING, MICHIGAN
 RICK LAND, NEW YORK
 BOB SHARRS, MINNESOTA
 SPENCER BACCHUS II, ALABAMA
 MIKE HUFFINGTON, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KING, NEW YORK
 BERNARD SANDERS, VERMONT

(202) 225-4247

Mr. Bernard Nussbaum
 Counsel to the President
 The White House
 Washington, D.C. 20500

Mr. Stephen Potts
 Director
 Office of Government Ethics
 1201 New York Avenue, N.W.
 Suite 500
 Washington, D.C. 20005-3917

Ms. Jean Hanson
 General Counsel
 Room 3000
 Department of the Treasury
 Washington, D.C. 20220

Mr. Art Kusinski
 Chief Ethics Officer
 Resolution Trust Corporation
 801- 17th Street, N.W.
 Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000201

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels; or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C. 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000202

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000203

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,


James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

X000204

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
2123 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

February 3, 1994

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
STEWART L. REAL, NORTH CAROLINA
JOHN W. LAFALCE, NEW YORK
BRUCE A. VENTURA, MINNESOTA
CHARLES E. SCHUMER, NEW YORK
SAMANTH FRANKS, MASSACHUSETTS
PAUL E. SANDGREN, PENNSYLVANIA
JOSEPH P. KENNEDY, MASSACHUSETTS
FLYNN H. PLATT, NEW YORK
CYNTHY MURPHY, MARYLAND
NANCIE WATTE, CALIFORNIA
LARRY LAFOLLE, IDAHO
BILL OXTON, UTAH
JIM SACCOMINI, FLORIDA
HERBERT E. CLARK, NEW JERSEY
CAROLYN S. MALONEY, NEW YORK
PETER BOUTROUX, FLORIDA
LUD V. GUTTERILL, ILLINOIS
BOBBY L. FURR, KANSAS
LUCILLE ROYAL-ALLARD, CALIFORNIA
THOMAS H. SAWYER, WISCONSIN
ELEANOR FURSE, OHIO
RYAN M. VILAZQUEZ, NEW YORK
ALBERT E. WYTHE, MARYLAND
CLEO FURLE, LOUISIANA
MELVIN WATY, NORTH CAROLINA
MARCELO HENRIQUEZ, NEW YORK
CALVIN M. BOOLEY, CALIFORNIA
RON CLARK, PENNSYLVANIA
ERIC FENSTERMAK, OHIO

JAMES A. LEACH, IOWA
BILL BRADLEY, NEW JERSEY
DANIEL ROSENBERG, NEW JERSEY
BOB CROWLEY, KANSAS
THOMAS RICE, PENNSYLVANIA
TERRY ROTH, WISCONSIN
ALBERT A. BUCKLE, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM HUBLE, IOWA
CRAN THOMAS, IOWA
SANDY JOHNSON, TEXAS
MICHAEL FRYCE, OHIO
JOHN LIPSON, GEORGIA
JOE CHILKOTSKY, MICHIGAN
ROD LADD, NEW YORK
ROD GRANT, MINNESOTA
SPENCER BACHUS, ALABAMA
MRS. HUFFSTON, CALIFORNIA
MICHAEL CASTLE, DELAWARE
PETER COLE, NEW YORK
BERNARD SANDERS, VERMONT
END 225-4247

Mr. Roger C. Altman
Interim CEO
Resolution Trust Corporation
801 17th Street, NW
Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department.

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities.

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

X000205

Mr. Roger C. Altman
Page 2
February 3, 1994

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

X000206

Mr. Roger C. Altman
Page 3
February 3, 1994


on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,



JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

X000207

THE WHITE HOUSE
WASHINGTON

March 3, 1994

MEMORANDUM FOR THE WHITE HOUSE STAFF

FROM: Mack McLarty
Chief of Staff



SUBJECT: Contacts regarding Madison Guaranty, Whitewater and related matters

This memorandum reiterates White House policy on contacts with agencies, previously set forth by the Counsel's Office, and outlines specific guidance for issues related to Madison Guaranty, Whitewater Development Corporation and related matters.

Any contact from an Executive Branch or independent agency regarding Madison Guaranty, Whitewater or related matters should be directed promptly to the Deputy Counsel, who is charged with reviewing such contacts and determining whether they should be directed to the President's or First Lady's personal attorney or addressed by the White House. In addition, no contact by the White House with Executive Branch or independent agencies regarding these matters should be made without prior authorization from the Deputy Counsel.

X000208

**RESOLUTION TRUST CORPORATION**Resolving The Crisis
Restoring The Confidence**FAXED**
3 JUL 1994

March 2, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

I testified before your Committee last Thursday in connection with the semi-annual Oversight hearings on the RTC. There was a discussion, as you remember, of a meeting which I had with representatives of the White House. As I indicated, no non-public information was provided at that meeting on any aspect of the Madison Guaranty matter.

When Senator Bond asked me at that hearing whether any other communications had taken place between the RTC and the White House, my response was "not to my knowledge". I still have no knowledge that any such discussions occurred.

But, I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries.

I would appreciate the opportunity to amend the record accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Altman", written over a horizontal line.

Roger C. Altman

X000209



RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

Roger C. Altman

X000210

THE WHITE HOUSE
WASHINGTON

March 7, 1994

MEMORANDUM FOR THE FILES

FROM: David Gergen 

Subj: Contacts with RTC/FDIC

To the best of my memory, I have not had any conversations - direct or indirect -- with officials representing RTC about the content of subjects under investigation. My files also do not show any phone calls or contain papers which suggest contacts.

For purposes of the record, I wish to take note of the following:

-- Last Monday, February 28, I placed a call to Roger Altman to congratulate him on recusing himself with regard to Madison Guaranty. I thought he had voluntarily taken the proper step and I wanted to be sure he knew of my support.

-- This past Saturday morning, March 5, Roger Altman called me to discuss a public letter he had sent to Senator Riegle explaining aspects of his earlier meeting with White House officials, including the fact that his office had obtained prior clearance from the Office of Ethics at Treasury. He wished to ensure that White House officials and members of the press were more fully apprised of the letter, and I assured him we would make an effort to make sure people knew of its contents. At the end of the conversation, I raised the subject of his coming testimony to Congress and I emphasized how strongly the President wished that in all such matters, his people be forthcoming and honest.

-- This past Sunday evening, March 6, my wife and I had dinner at Mr. Altman's home. It was largely a social occasion. He and I did talk about the controversies that were in the press re: Whitewater but we did not talk about anything which might have been untoward (e.g., we specifically avoided discussion of his forthcoming testimony at the request of Special Counsel Fiske). (I have previously attended one other dinner at Roger Altman's home but I believe the subject of the RTC never came up, nor can I recall any other conversations with Mr. Altman about

X000211

THE WHITE HOUSE
WASHINGTON

it.)

-- On another front: about three Sundays ago (I may be off by a week or so), I received a call at home from Ricki Tigert, a friend, who wanted to discuss her pending appointment to the chairmanship of the FDIC and the question of whether she should recuse herself from matters relating to Whitewater. She expressed a preference for recusal, and I encouraged her to seek such recusal. She asked if I would discuss her interest in a recusal with others at the White House, and I promised her that I would. Thereafter, I spoke with Joel Klein, who also supported a recusal. Joel notified me that Monday (possibly Tuesday) that Ricki would indeed be recusing herself.

My memory is a little hazy, but I believe these conversations represent my contacts with regulators in the Madison matter.

X000212

File
Rogers
Attorney General, 1994

Rogers Attorney - phone call

Right - letter sent by
Rogers -

① Pre-approval
by other office
at Treasury

② applied with
personally involved
to Director. staff

③ To her if
knowledge, was
in public domain

Press not getting the
message -
Taping to put perspective

Revised - even if
revises but no one
can object
No one will be directly
not to do it -

2-11-94 - memo. to Attorney

DJ - urged him to be
challenged, but, about. might be

REDACTED

REDACTED

X000214

REDACTED

X000215

X000216

REDACTED

REDACTED

X000217

REDACTED**X000218****1993**

On July 20, Vince Foster commits suicide. On July 22, the office of Vince Foster is searched by Bernard Nussbaum, the Park Police, and the F.B.I. Materials are placed by Nussbaum into three piles, official White house files, personal Foster files, and Clinton personal files. The Clinton files are turned over to David Kendell, the Clinton's personal lawyer.

On December 24, 1993 a subpoena is issued pursuant to negotiations between David Kendell and the Justice department.

X000219

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

March 1, 1994

PRESS BRIEFING
BY DEE DEE MYERS

The Briefing Room

1:48 P.M. EST

MS. MYERS: A couple of brief announcements here. First of all, tomorrow, we've added an event. It is President Clinton will take part in a conference call with citizens in eight cities across the country to discuss the impact of the Clinton health care plan on long-term care benefits. That will be from the Oval Office with primary care-givers for a member of their families who need home care services. They will be hooking up with people from eight different communities, including Langhorne, Pennsylvania; Omaha, Nebraska; Jonesboro, Arkansas; Fresno, California; Blacksburg, Virginia; Ozone Park, New York; Wheaton, Kansas; and Houston, Texas for those of you with --

Q What time is it?

MS. MYERS: That's 10:30 a.m. tomorrow, from the Oval Office.

Q How long is it?

Q What's the coverage on it?

MS. MYERS: It will be pooled. And how long? It will probably take 20 minutes, half an hour, something like that.

Q What else is he doing tomorrow?

MS. MYERS: That's the only major public event. Let me -- I can go through the schedule for the rest of the week if you guys want.

Today at 2:30 p.m., as you know, we have the Dallas Cowboys. Then tomorrow, again, at 10:30 a.m. the conference call on long-term care. He'll tape an interview with CBS This Morning, which will air during their usual slot on Thursday morning -- and that will be health care related.

Q What time is that?

MS. MYERS: That tapes around 4:30 p.m. in the afternoon. But, again, it will air on Thursday morning between 7:00 a.m. and 9:00 a.m.

X000220

Thursday he has lunch with the Vice President, no public events. And on Friday, he has President Kravchuk in. It's a usual working schedule. President Kravchuk will come in sometime around 11:15 a.m. They'll have a series of meetings, lunch, followed by press statements. Saturday, he'll give the radio address live; and that's the only event currently on the schedule for the weekend.

Q Why does Kravchuk get this kind of treatment and Major didn't, in terms of a press -- full-scale press conference?

MS. MYERS: Well, Prime Minister Major's been here before, as you know. The President met with him several times at multinational forums; they've spoken on the phone a number of times. And I think President Clinton wanted a less formal opportunity to talk with Prime Minister Major to discuss a number of issues; to simply get to know one another better. They had a very successful visit, which concluded, as you know, with breakfast this morning in the solarium. They had, I think, a very good exchange and it was a very productive meeting.

Q Why does any of that preclude a press conference?

MS. MYERS: Well, I think they then went downstairs and took a number of questions. Each gave a statement and took questions, consistent with past practices; but I think we chose to do it in a slightly different form.

Q So you're saying they had a press conference, but it was more informal than most, is that what you're saying?

MS. MYERS: I think the whole meeting was somewhat more informal than the usual working business, which I think is something that President Clinton thinks is useful.

Q Well, they were talking on very important subjects and three-quarters of the reporters couldn't hear it.

MS. MYERS: I think clearly there was a logistics problem -- unintentional -- something that we'll resolve in the future. I think there was somewhat -- and it's our fault and I apologize for that. It was not intentional. I think it was an effort on our part to make sure that the Prime Minister and the President had an opportunity to answer your questions and to make a brief statement about the substantive discussions that they had this morning.

* Q Dee Dee, I'd like to ask you some questions about the Roger Altman briefing that occurred here several weeks ago. Number one, Treasury officials have been quoted as saying that they regret -- or Mr. Altman regrets coming over here. Does the White House regret having him come over here?

MS. MYERS: I think Mr. Altman made a statement about that. What we've said is that the meeting -- nothing was inappropriate, nothing inappropriate took place. I think some members of Congress and others have tried to make political hay out of this, which is unfortunate. But, as you know, the entire issue is being investigated by the special counsel, and we just have no further comment.

X000221

Q You don't regret his having come over here -- the White House doesn't?

MS. MYERS: I think there was nothing inappropriate about it. But, again, the whole issue is being investigated by the special counsel and we're not going to discuss it.

Q Would you explain why it was appropriate for him not to do it again, to say -- to recuse himself?

MS. MYERS: I think Mr. Altman made a statement about that -- recused himself, and I'll let his word stand.

Q Was that appropriate?

MS. MYERS: I think, again, Roger made a statement about that, and I'll let his word stand.

* Q Why is Bernie Nussbaum handling this business, rather than Mr. Kendall, the private attorney? Why is it being done on tax-dollar basis? Why is he the lawyer?

MS. MYERS: Well, I think that, again, the briefing was simply informational. It was information that was available to members of Congress and others. Mr. Altman has addressed that, and I have no further comment on it.

Q But I'm asking you about Mr. Nussbaum, not about Mr. Altman's role.

MS. MYERS: Again, I think we -- there was nothing inappropriate about that briefing, he was simply passing on information. We continue -- I have nothing to add to that. There was nothing inappropriate about it.

Q But Mr. Nussbaum doesn't defend, or isn't the lawyer on this case. Mr. Kendall is.

MS. MYERS: I think, again, they were simply passing on information about issues that I think are relevant and important. But beyond that, we have no comment on it.

Q What would Harold Ickes or Maggie Williams do with that information? What would their role be that they would use that information?

MS. MYERS: I'm not going to comment any further on the substance of the meeting, other than to say this whole thing is being investigated, we're cooperating fully, and we have nothing more to say about it. I would add one point -- we're not going to jump every time somebody tries to make a political issue out of Whitewater. We're cooperating fully with the investigation, and we have nothing more to say about it.

Q Why is this a political issue?

MS. MYERS: I think there are a number of people who are trying to make it a political issue, who try to raise it. And I think we're not going to react every time they do.

Q Just to get back to Mark's original question,

X000222

though, is the White House saying that this was appropriate, or is the White House not? And do you share the belief that Mr. Altman said that it shouldn't have happened?

MS. MYERS: I think our view is that nothing inappropriate happened at the meeting. As Mr. Altman --

Q But could this happen again --

MS. MYERS: -- Mr. Altman made a statement in recusing himself. I think he made it clear that he was taking steps to avoid even the appearance of impropriety. That is appropriate, and I have nothing more to say about it.

Q Nothing inappropriate happened at the meeting, but was the meeting itself appropriate?

MS. MYERS: I'm not going to comment on that. I have nothing more to add.

Q Are you going to answer the question, is Bernard Nussbaum handling the Whitewater issues for the President?

MS. MYERS: As you know, a number of -- this involves a number of issues across the board. It's being investigated by a special counsel. It is something that, as the Commander in Chief, the President is obviously forced to deal with. So occasionally, it's something that obviously has relevance here. I'm not going to get into the specifics. It's being investigated; we are cooperating fully with that investigation.

Q Well, I'm not looking for specifics. I'm just looking for a yes or no -- is he handling Whitewater issues for the President?

MS. MYERS: And I just answered that.

Q I didn't hear a yes or no.

MS. MYERS: I'm not -- I said that this is something that obviously involves the President and, therefore, there are issues that you can't separate it completely from -- he's the President.

Q Also, since the Treasury Secretary has recused himself, why shouldn't Nussbaum? Since most of these issues deal with things that happened while the President was governor, why shouldn't he recuse himself, because he's essentially the President's lawyer here for things that happen now?

MS. MYERS: He's the President's lawyer, period. He deals with issues that affect -- I'm sorry, not the only lawyer -- but he works for the President and these are all -- you can't separate issues that deal with the President now and before. I think it's -- you can't make that distinction and we're not going to try. But I think Mr. Nussbaum handles his responsibilities in accordance as the White House Counsel, and he'll continue to do that.

Q Dee Dee, is there any indication that the Ames case may have compromised some CIA agents? We understood that there were

X000223

10 Soviet agents that may have been compromised. Did it involve compromising --

MS. MYERS: I have no information for you on that.

Q Do you expect an agreement today between the Croats and the Muslims?

X000224

~~SENATOR BOB DOLE~~WHITE HOUSE POLITICS~~MARCH 7, 1994~~

(MR. DOLE.)

MR. PRESIDENT, AS THE
WHITEWATER CONTROVERSY
GROWS, IT'S ^{IS} NOT SURPRISING
THAT THE POLITICAL CHARGES
ARE HEATING UP AS WELL.

LAST WEEK, PRESIDENT
CLINTON HIMSELF MADE THE

CAMPAIGN WAS OVER,
SUGGESTING ON NATIONAL
TELEVISION THAT REPUBLICANS
ARE SOMEHOW GINNING UP
WHITEWATER FOR OUR OWN
POLITICAL ADVANTAGE.

MR. PRESIDENT,
NOTWITHSTANDING THESE
CHARGES, WHICH I REJECT, IT'S
THE DEMOCRAT CONGRESS

X000226

**THAT CONTINUES TO BLOCK
WHITEWATER HEARINGS. IT
WAS THE CHAIRMAN OF THE
DEMOCRATIC NATIONAL
COMMITTEE WHO PLAYED
"POLITICAL TOUGH GUY" WHEN
HE TRIED TO INTIMIDATE
SENATOR D'AMATO WITH A
THREATENING LETTER NOTABLE
ONLY FOR ITS CLUMSINESS. IT**

X000227

^(not)
**WASN'T AN R.N.C. NEWSLETTER
THAT RAN EDITORIALS WITH
TITLES LIKE "SLOVENLY WHITE
HOUSE ETHICS," "WHITE HOUSE
ETHICS MELTDOWN," AND "MR.
NUSSBAUM GOES--NOT THE
MESS." THAT'S THE NEW YORK
TIMES AND THE WASHINGTON
POST.**

AND, MR. PRESIDENT, THE

X000228

**BIGGEST POLITICAL PLAYERS IN
TOWN ARE APPARENTLY IN THE
WHITE HOUSE ITSELF: IN
TRAVELGATE, AND NOW IN
WHITEWATER, WHITE HOUSE
STAFF HAVE PLAYED WITH FIRE,
SHOWING A BRAZEN
WILLINGNESS TO MIX POLITICS
WITH LAW ENFORCEMENT.**

THE BOTTOM LINE IS:

X000229

**WHITEWATER IS A CASE STUDY
IN SELF-**

IMMOLATION...OMISSIONS,

MISSTATEMENTS OF FACT,

"NEGOTIATED" SUBPOENAS,

BEHIND-THE-SCENES

MEETINGS...HAVE ALL CREATED

THE IMPRESSION THAT THERE'S

SOMETHING TO HIDE, THAT

THERE'S ^{VS} SOMETHING UNSEEMLY

X000230

**LURKING IN THE WHITEWATER
BOG.**

**I MAY BE WRONG...AND I
HOPE I AM WRONG.**

**MR. PRESIDENT, LAST
WEEK, 43 SENATE REPUBLICANS
SENT A LETTER TO THE
DISTINGUISHED MAJORITY
LEADER STATING THAT WE WILL
HOLD UP THE NOMINATION OF**

X000231

**RICKI TIGERT, PRESIDENT
CLINTON'S NOMINEE TO HEAD
THE F.D.I.C., UNLESS THE
SENATE BANKING COMMITTEE
HAS THE OPPORTUNITY TO
THOROUGHLY EXAMINE THE
RECENTLY-REVEALED WHITE
HOUSE-RTC-TREASURY
MEETINGS. ^{115/}IT'S MY HOPE THAT
THE DEMOCRAT LEADERSHIP IN**

X000232

**CONGRESS WILL WORK WITH
REPUBLICANS TO SCHEDULE
THESE HEARINGS SO THAT THE
AMERICAN PEOPLE CAN GET A
FULL ACCOUNTING OF THE
WHITEWATER MESS.**

**AGAIN: IF THERE'S ^{has} BEEN
NO WRONGDOING, THERE
SHOULD BE NOTHING TO HIDE.
AS I POINTED OUT LAST**

X000233

**WEEK, THE CONGRESSIONAL
RESEARCH SERVICE HAS
PREPARED A MEMORANDUM
LISTING MORE THAN 20
CONGRESSIONAL HEARINGS
AND INVESTIGATIONS INTO
ALLEGED EXECUTIVE BRANCH
WRONGDOING DURING THE
REAGAN AND BUSH
ADMINISTRATIONS. THE**

X000234

**DEMOCRAT-CONTROLLED
CONGRESS HAS NEVER BEEN
SHY ABOUT EXERCISING ITS
OVERSIGHT
RESPONSIBILITIES^{U - -} AND
THERE'S^{VS} NO REASON TO MAKE
AN EXCEPTION FOR
WHITEWATER.**

**IF CONGRESS FAILS TO
EXERCISE ITS OVERSIGHT**

X000235

**RESPONSIBILITIES, IF WE DON'T^(NOT)
HOLD HEARINGS, THEN WE
EXPOSE OURSELVES TO THE
CHARGE OF BEING WILLING
ACCOMPLICES TO WHATEVER
WRONGDOING MAY HAVE
OCCURRED.**

**MR. PRESIDENT, I ASK
UNANIMOUS CONSENT THAT**

X000236

**EDITORIALS FROM YESTERDAY'S
NEW YORK TIMES AND
WASHINGTON POST BE
~~RE~~PRINTED IN THE RECORD ¹
~~IMMEDIATELY AFTER MY~~
~~REMARKS~~. I ALSO ASK
UNANIMOUS CONSENT THAT THE
MEMORANDUM FROM THE
CONGRESSIONAL RESEARCH
SERVICE BE ~~RE~~PRINTED IN THE**

344

X000237

RECORD AS WELL.

###

X000238

Mr. DOLE. Mr. President, I know there is talk about,

"Well, we can't do this because of Iran-Contra," but there were

a lot of speeches made on this floor in 1991, one by now Vice

President, then Senator, Al Gore, who said, with reference to

the 1980 October Surprise:

— "The evidence which has thus far trickled into the public domain is still fragmentary. Much of it is circumstantial, but it is compelling. If the allegations are not true, the country needs to know they are not true. If they are true, the country needs to know that as well. ...

— "I believe the air needs to be cleared. So, I am today calling for a formal investigation of these charges and allegations without prejudging what that investigation might find, but believing deeply that it needs to take place in order to establish the truth or falsehood of the allegations that have been made."

1592

X000239

That was all about a bunch of rumors and some guy named Gary Slick who came down here and convinced Democrats that we ought to have a hearing on whether or not President Reagan was engaged in some kind of conspiracy back in 1980 with reference to hostages.

We had hearings on that. Nobody said, "Oh, we can't do that because of Iran Contra," or whatever, because of what Mr. Fiske or Mr. Walsh may have said.

So, we can all be quoted. I notice that the Democrat National Committee said in 1973, I believe, that I wanted to stop the Watergate hearing. Well, I dug out that speech. We were not trying to stop the hearings. In fact, I think we were suggesting that they were probably a good thing to have. We were just trying to stop the live coverage so we could do other

1602

X000240

trying to keep out the press. We just thought live coverage day after day after day was not necessary.

So we think a case will be made, and I hope that we could have some response soon.

I reserve the remainder of my time.

X000241

JAMES A. LEACH, IOWA
 BILL BUCKLE, FLORIDA
 MARK BROWDER, NEW JERSEY
 DONALD BROWDER, IOWA
 THOMAS R. BROWN, PENNSYLVANIA
 TONY BETH, MISSOURI
 ALFRED A. MCCABE, CALIFORNIA
 THOMAS R. BROWN, IOWA
 JIM BUCKLE, IOWA
 GARY THOMAS, IOWA
 SAM JOHNSON, TEXAS
 GEORGE FRY, OHIO
 JOHN LINDSEY, GEORGIA
 JOE DILLINGER, IOWA
 RICH LADD, NEW YORK
 RAY GRANT, MISSOURI
 SPENCER BROWN, ALABAMA
 MARY HARRINGTON, CALIFORNIA
 MICHAEL GAVIN, IOWA
 PETER KING, NEW YORK
 DONALD BROWDER, IOWA

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6060

**** FACSIMILE ****

DATE: March 1, 1994
TO: Mr. Bernard Husebaum
FROM: Congressman James A. Leach

Number of Pages to Follow: 4

Enclosures and the original letter are being sent via mail.

HENRY & GONZALEZ TEXAS COMPANY

STEPHEN B. LEE, SOUTH CAROLINA
 STEVEN A. MORGAN, NEW YORK
 STEVEN P. NEWELL, MISSISSIPPI
 CHARLES E. SCHMIDT, NEW YORK
 STEVEN J. SHAW, MASSACHUSETTS
 PAUL E. BARBERIS, MISSISSIPPI
 JOSEPH P. SCHWARTZ, MASSACHUSETTS
 RALPH H. PLUMB, NEW YORK
 STEVEN M. RUMBLE, MASSACHUSETTS
 MARION WATKINS, CALIFORNIA
 LARRY LAZZARO, OHIO
 LARRY GRIFFIN, UTAH
 STEVEN A. KLEIN, FLORIDA
 HERBERT E. PLUMB, NEW JERSEY
 PETER W. S. BUCKLEY, NEW YORK
 PETER BENTLEY, FLORIDA
 ALAN W. THOMAS, ALABAMA
 STEVEN L. RUSH, ALABAMA
 LYNELLE RYDAN-CLARK, CALIFORNIA
 NORMAN B. HANFORD, OREGON
 BLAKE J. HARRIS, OREGON
 STEVEN M. VELASQUEZ, NEW YORK
 ALBERT A. WYER, MASSACHUSETTS
 GARY HOLLY, MASSACHUSETTS
 STEVEN J. WILSON, NORTH CAROLINA
 MAURICE BROWN, NEW YORK
 CALVIN H. BOOLEY, CALIFORNIA
 STEVE GLENN, PENNSYLVANIA
 STEVEN J. WILSON, NEW YORK

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
2198 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

MARCH 1, 1994

[illegible]

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

**Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917**

**Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220**

Mr. Art Rusinski
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

DEAR MESSRS. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000243

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels;
or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1603.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000244

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000245

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.


"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,


James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

XDC 0246

**U.S. Senate
Republican Policy
Committee**

Don Nickles, Chairman
Kelly D. Johnston, Staff Director

Talking Points

January 27, 1994

Whitewater: Ten Questions

The January 20 appointment of Special Counsel Robert Fiske begins a process that hopefully will resolve serious questions of possible wrongdoing by the President of the United States and his spouse both before his election and during his Administration. At question is the Clintons' involvement in a real estate investment, known as Whitewater, and a failed savings and loan, Madison Guaranty.

Numerous reports concerning Whitewater have been published in reputable newspapers around the country. This paper raises ten questions that lend support to Senate Republican calls for a full investigation of the matter, and by summarizing reported events to date, attempts to distill the allegations. Attached for reference is a House Republican Policy Committee document of "players" in the Whitewater and Madison Guaranty matters.

The questions are:

1. **Were then-Arkansas Attorney General Bill Clinton and his wife, Hillary Rodham Clinton, provided a "gift" by being made equal partners in the Whitewater Development Corporation, despite investing "little money"?**

It is not clear how much cash—if any—that then-Attorney General Bill Clinton and his spouse actually invested in their share of a joint purchase with James and Susan McDougal on August 2, 1978, of 230 acres for \$203,000 to eventually establish Whitewater, a vacation-home development project.

2. **Did then-Governor Clinton's 1984 campaign receive money wrongly diverted by James McDougal, Clinton's business partner, and owner of Madison Guaranty, a federally insured savings and loan, from Madison to pay off a \$50,000 personal loan with another bank to the Governor? Additionally, did McDougal in 1985 write checks from Whitewater's account to pay off Bill Clinton's personal loans?**

"At least one person listed as having donated money at the 1985 [fundraising] event has denied he contributed to Clinton" (*Arkansas Democrat Gazette*, 1/15/94). Bill Clinton reportedly asked McDougal "to take care of the debt still left over from 1984. 'He asked me to knock out the deficit.' " McDougal said (*New York Times*, 12/15/93).

X000263

3. **Did Governor Bill Clinton in 1986 pressure David Hale, the owner of Capital Management Services, to knowingly issue an illegal Small Business Administration loan to Whitewater co-owner Susan McDougal, and were those funds then used to "clean up" financial problems at Madison? (Washington Times, 11/6/93)**

Hale told reporters that Governor Clinton, on at least two occasions, pressured him to issue the SBA-backed "disadvantaged" loan that was never repaid. Hale, awaiting trial on an indictment for wrongdoing concerning loans not related to Whitewater, unsuccessfully tried to negotiate a deal with the U.S. Attorney in Little Rock in exchange for the information he has now made public. Both Clinton and McDougal deny the meetings took place, but the loan to Susan McDougal is not questioned.

4. **Did Clinton in 1984 pressure Madison owner and Whitewater Development partner James McDougal to hire Hillary Clinton to represent the S&L, which allowed her to promote a stock issue plan to a newly hired state securities commissioner, whose brother managed Clinton's campaign?**

McDougal told the *Los Angeles Times* (11/7/93) that Clinton asked him to give some of Madison's legal work to Hillary Clinton because of tight finances at the Clinton home, specifically requesting \$2,000 per month. Hillary Clinton received a \$2,000-a-month retainer for 15 months, and helped Madison win approval from state regulators regarding the novel stock issue plan that was never carried out.

5. **If Governor and Mrs. Clinton were merely "passive shareholders" in Whitewater, how do they explain the fact that Mrs. Clinton in 1988 sought broad powers-of-attorney over Whitewater, and the fact that published reports indicate the Clintons "took an aggressive part in the management of Whitewater's affairs"? (Washington Times, 11/4/93)**

6. **Did the Rose law firm in 1989, which then was managed by now-Associate Attorney General Webster Hubbell, violate FDIC rules by failing to disclose to regulators its earlier representation of Madison Guaranty by senior law partner Hillary Rodham Clinton?**

One of the Rose law firm's senior partners, Vincent Foster, signed a letter to the FDIC seeking the job of prosecuting the failed Madison Guaranty S&L. Therein, he claimed that the Rose firm did not represent any S&L associations in any state or federal regulatory matters. Rose's then-managing partner, Webster Hubbell, claims to have told the FDIC about the Rose firm's dealings with Madison. The FDIC disputes that. The FDIC hired Rose (without knowing of its earlier representation) and paid the firm \$400,000.

X000264

7. **Did U.S. Attorney for the Eastern District of Arkansas, Paula Casey, in 1993 violate Department of Justice rules regarding conflict-of-interest by initially deciding to concur with Justice Department recommendations not to pursue a criminal referral from the Resolution Trust Corporation, which specifically mentioned Bill and Hillary Clinton?**

Casey has a long history of involvement with Clinton, including volunteering in his gubernatorial bids. Two weeks after her concurrence, after the matter became public, she then recused herself. (*Washington Post*, 11/11/93)

8. **Have laws or rules been violated by White House officials in the handling of Whitewater files that were in the office of White House Deputy Counsel Vincent Foster following his apparent suicide on July 30, 1993, but were not turned over to the Justice Department until January 18, 1994, nearly six months later? And, where are the Whitewater files which James McDougal claimed he personally delivered to the Arkansas Governor's Mansion in 1987 at the request of Hillary Clinton that now apparently cannot be found?**

9. **How much did the Clintons actually lose or gain in Whitewater Development?**

An "audit" prepared for the 1992 Clinton campaign by Denver attorney, and Clinton friend, James Lyons, claimed the Clintons lost \$68,900 from their Whitewater investment. However, a recent *Time* magazine article, and published comments by James McDougal, suggest the loss was much less. Also, the Clintons claimed a \$1,000 capital gain from their sale of Whitewater in their 1992 tax return, and never reported a loss in previous returns. (*Washington Post*, 4/16/93)

10. **Why did the Clintons' and McDougals' corporation, Whitewater Development, fail to file tax returns for three years?**

During the early months of the Clinton Administration, Vince Foster oversaw the preparation of three years worth of delinquent tax returns, which were filed in June 1993, a fact not made known to the media or the public until after Vince Foster's death.

The President and his spokespersons vehemently and repeatedly deny any wrongdoing, and incorrectly claim that no one has alleged any wrongdoing on their part.

Congress Acts: A House Chairman Goes First

- The first call by a Member of Congress for an investigation into possible wrongdoing relating to Madison Guaranty, Whitewater Development, and their owners, was by Rep. John LaFalce (D-NY), chairman of the House Small Business Committee, on November 5, 1993, with support from ranking member Rep. Jan Meyers (R-KS). Rep. LaFalce asked the Small Business Administration (SBA) for a report "on the activities

X000249

of Capital Management Services, Inc." by November 15, 1993. Chairman LaFalce has not disclosed whether he has yet received the report, and if he has, it has not been made public.

- U.S. Senator Lauch Faircloth (R-NC) first wrote Attorney General Janet Reno in early November asking for the appointment of an independent counsel (*Los Angeles Times*, 11/7/93).
- A separate investigation was called for on November 7 by Rep. Toby Roth (R-WI), ranking member of the House Subcommittee on General Oversight, Investigations and the Resolution of Failed Financial Institutions, in a letter to his chairman, Rep. Floyd Flake (D-NY).
- On November 9, GOP lawmakers on the House Banking Committee, led by ranking member Jim Leach (R-IA), requested a Banking Committee probe. Five days later, Chairman Henry B. Gonzalez (D-TX) announced the Committee would designate staff for a preliminary investigation, but abruptly scuttled the plan on December 10.
- On December 23, Senate Republican Leader Robert Dole and Banking Committee ranking member Senator Alfonse D'Amato wrote Committee Chairman Senator Donald Riegle asking for an investigation (which the chairman later refused to grant).

Was the SBA Defrauded?

- Perhaps the most damaging allegation involving Bill Clinton, James McDougal and Whitewater Development concerns Capital Management Services Inc., a federally sponsored lending company owned by David Hale, a 14-year Arkansas municipal judge.
- As owner of a SBA-sponsored Specialized Small Business Investment Company (SSBIC), Hale was by law allowed to lend money only to "disadvantaged" business owners. Hale was indicted in September 1993, for "defrauding the SBA in other loans" not related to Whitewater (*Washington Times*, 11/6/93). He awaits trial.
- In a bizarre coincidence, the indictments against Hale stemmed from files gathered by the FBI during a raid on Hale's office, authorized on the morning of July 30, 1993, by a federal magistrate. That afternoon, White House Deputy Counsel Vincent Foster, Jr., was found dead at Fort Marcy, a Civil War historical site near Langley, Virginia. Because the death occurred on U.S. Park Service-controlled property, that agency led the investigation, and eventually ruled it a suicide.

X000250

- Taken in the FBI raid, according to media reports, was a file involving a \$300,000 loan from Capital Management Services to Susan McDougal. According to her then-husband, James McDougal, their corporation, Whitewater, used "a portion of" Susan McDougal's loan money to make a \$110,000 down payment on 800 acres south of Little Rock (*Washington Post*, 11/6/93). The SBA-backed loan was not repaid.
- Hale told reporters that James McDougal and Governor Clinton "had directly urged him" to make the loan to Susan McDougal "to help bail them out" of unspecified "financial problems" (*Newsweek*, 11/15/93). The *New York Times* reported (11/2/93) Hale's claim that McDougal told him the money would be used to cover up certain dubious Madison transactions, "including indirect help for the Clintons."

Did Clinton Pressure Lender for Illegal SBA Loan?

- A *Washington Times* story of November 4 is more specific:

"Mr. Hale, an intimate of several powerful Arkansas politicians, said he lent the money without speaking to Mrs. McDougal after two meetings with Mr. Clinton, including a February 1986 encounter at the state Capitol. He said the governor asked him on that occasion: 'David, are you going to be able to help Jim and me out?'"

"He said he met a second time, in March 1986, with Mr. Clinton and Mr. McDougal at Mr. McDougal's office to discuss how the loan was to be structured."

"Mr. Hale said the two men told him they needed to 'clean up' financial problems at Madison and the loan to Mrs. McDougal would help them do that...."

"They all knew Mrs. McDougal did not legally qualify for the SBA loan, Mr. Hale said, and at this second meeting Mr. Clinton told him that the Clinton name could not be associated with the deal 'anywhere in this, anywhere at all.'"

"'I knew what was going on, as we all did,' Mr. Hale said. 'But we were friends, and that's just the way business is done in Arkansas.'"

Clinton's Response: No Recollection

- President Clinton, through spokeswoman Dee Dee Myers, questioned Hale's motivation and claimed to have no recollection of any meetings with Mr. Hale or of any efforts to pressure him to give an SBA loan to Mrs. McDougal.

X000267

- U.S. Attorney Paula Casey, a Clinton appointee and volunteer in several of Clinton's gubernatorial campaigns who was a law student of Mr. Clinton's at the University of Arkansas, and whose husband, Gil Glover, had been appointed to a state job by Gov. Clinton, recused herself of Hale's prosecution on November 9 (about the same time she recused herself from the RTC case mentioning the Clintons) (*Arkansas Democrat-Gazette*, 11/10/93, *Time*, 1/17/94).

A History of Whitewater Development

1978: Whitewater Created, Clintons Get Stake on "Little Money"

- The Clintons' association with the McDougals began in the 1960s when Bill and Jim worked together on the staff of then-U.S. Senator J. William Fulbright (D-AR). While Bill Clinton served as attorney general of Arkansas in 1978, the Clintons and the McDougals formed Whitewater Development Corporation to develop land in the Ozark Mountains of Arkansas.
- Through Whitewater, 230 acres of Ozark Mountain vacation property was purchased with plans to subdivide and sell the acreage in lots. "During this period," reported the *New York Times* (3/8/92), "the Clintons appear to have invested little money, so stood to lose little if the venture failed, but might have cashed in on their 50 percent interest if it had done well."
- The *Washington Post* reported on November 29, 1993, that the \$20,000 down payment that the Clintons apparently paid in for Whitewater came from an unsecured loan at a Little Rock bank, whose board of directors included Clinton's top campaign finance official that year, Walter DeRoeck.

1984: Whitewater Posts Losses; Madison Hires Hillary

- According to check ledgers, Whitewater posted losses beginning in 1984 and had frequent and large negative balances in its account at Madison (*New York Times*, 11/2/93). The Resolution Trust Corporation later alleged that during this period, Whitewater was used by the McDougals in a check-kiting scheme involving funds from Madison (*Washington Post*, 11/11/93).

X000268

- The *Los Angeles Times* (11/7/93) reported McDougal said Clinton "stopped by after a morning jog" to tell him that family finances were tight and ask if he could please throw some of Madison Guaranty Savings' legal business to his attorney wife, Hillary Rodham Clinton. When asked how much they needed, Clinton said "\$2,000 a month," according to McDougal.
- Hillary Clinton, then with the Rose law firm, began accepting a \$2,000-a-month retainer from Madison Guaranty. Mr. McDougal said he hired Hillary at the urging of her husband, Governor Clinton (*Los Angeles Times*, 11/12/93).

1985: Hillary's Efforts, A Clinton Fundraiser, and the Feds Investigate

- In April 1985, Hillary Clinton appealed to Beverly Bassett Schaffer, whom Clinton had recently appointed to the post of heading up state regulation of S&Ls (and whose brother helped manage Clinton's 1984 campaign), to approve an "unusual stock offering" to help save Madison (*Los Angeles Times*, 11/7/93, *Chicago Tribune*, 1/21/94). In a "Dear Hillary" letter, Schaffer wrote that she would let the plan go forward (*Washington Post*, 1/24/94).
- Days before McDougal held a fundraiser in April 1985 that raised \$35,000 to help Clinton pay off his debt to his 1984 reelection campaign, McDougal learned that Madison was being scrutinized by federal regulators (*New York Times*, 11/2/93). "At least one person listed as having donated money at a 1985 event has denied he contributed to Clinton" (*Arkansas Democrat Gazette*, 1/15/94). It is widely speculated that McDougal illegally diverted Madison funds to Clinton's campaign (*Time*, 1/17/94).
- Arkansas regulators approved a stock issue plan advanced by Madison's attorney, Hillary Rodham, but the plan was never carried out (*New York Times*, 11/2/93).
- The Clintons took out loans to invest in Whitewater. In 1984 and 1985, the Clintons "mistakenly" claimed interest deductions totaling \$5,133 to which Whitewater — not the Clintons — was entitled. That's because Whitewater directly made payments on those loans. (*New York Times*, 3/8/92, *Wall Street Journal*, 1/4/94)

1986: McDougal Removed

- Madison owner James McDougal was removed from the thrift's affairs by Federal and state regulators for financial mismanagement (*Washington Post*, 11/4/93).

X000253

1987: Whitewater Records to Hillary?

- James McDougal claimed that in late 1987, he sent all Whitewater records and files to Hillary Rodham Clinton at her request (*Washington Times*, 11/4/93). The Clintons said many of them have disappeared (*New York Times*, 3/8/92).

1988: Hillary Seeks Power of Attorney Over Whitewater

- Hillary Clinton sent a letter to James McDougal dated November 28, 1988, requesting that he sign an enclosed power-of-attorney request for Whitewater Development, including the power to endorse, sign and execute "checks, notes, deeds, agreements, certificates, receipts or any other instruments in writing of all matters related to Whitewater Development Corp." The Clintons' spokesman in 1992 claimed they were only "passive shareholders" in Whitewater (*Washington Times*, 11/4/93).

1989: Madison's Failure Costs Taxpayers \$47 Million; Rose Firm Hired

- The *Washington Post* on November 3, 1993, reported:

"The thrift, Madison Guaranty Savings and Loan, failed in 1989, costing taxpayers an estimated \$47 million. In an effort to recoup some of that money, the Federal Deposit Insurance Corp. hired the influential Rose law firm of Little Rock to sue the S&L's accountants, paying it \$400,000 in fees and expenses.

"Through a Justice Department spokesman, (Associate Attorney General Webster) Hubbell said he told the FDIC that lawyers at his firm, including senior partner Hillary Rodham Clinton, had represented Madison in the mid-1980s.

"FDIC officials said their attorneys have no documents and 'no recollection' that Hubbell told them of that work. According to FDIC records, however, the late Vincent Foster, a Rose partner before joining the Clinton White House general counsel's office, wrote to the FDIC earlier in 1989 soliciting work for his firm.

"The firm does not represent any savings and loan association in state or federal regulatory matters," Foster wrote, using the present tense. Conflict-of-interest rules generally bar lawyers from representing the government in S&L cases if they have done significant work for the thrift."

X000270

1990: McDougal Acquitted

- James McDougal was acquitted of charges that he illegally profited from real estate deals involving the development subsidiary of Madison Guaranty, Madison Financial Corporation.

1991: Rose Firm Settles Madison Suit for \$1 Million

- The government sought \$60 million in its suit against Madison Guaranty. The Rose firm settled the case on the FDIC's behalf with little publicity in 1991 for \$1 million (*Washington Post*, 11/3/93). "I felt they [the Rose firm] had switched sides — they turned around and worked the other side of the street," said one of the accountants [at Madison], who asked not to be named because he continues to have dealings with the Rose law firm" (*Washington Post*, 11/3/93).

1992: Whitewater Becomes Campaign Issue; Clintons Sell, Named in Criminal Referral; Tax Returns Not Filed

- After the *New York Times* originally broke the Whitewater story on March 8, Clinton, on March 12, asked Denver lawyer James Lyons, to prepare a "full financial review" of the land deal.

Lyons's review, based on a report prepared by Patten, McCarthy and Associates, a Denver-based forensic accounting firm that specializes in "financial reconstructions," was completed and made public on March 23, 1992, claiming the Clintons lost at least \$60,000 on the Whitewater investment, having "invested, loaned or otherwise advanced" to the development company \$68,900 since the venture began in 1978. It further claimed that Whitewater had an outstanding mortgage of \$10,400 plus accrued interest for which the Clintons are joint guarantors (*Associated Press*, 3/23/92).

However, "there is evidence aplenty that the Lyons report omitted or glossed over some pertinent facts," the *Wall Street Journal* reported on January 4, 1994. Three years worth of unfiled tax returns were never mentioned. It also failed to mention an airplane-for-land swap involving Chris Wade, the real estate agent for the development, and James McDougal. Wade sold the plane to Whitewater, but McDougal took possession and sold it to Seth Ward — a Madison subsidiary employee and Webster Hubbell's father-in-law.

X000255

Additionally, the Lyons report failed to report Whitewater's largest transaction — an October 1986, \$550,000 purchase of land owned by International Paper Company's realty unit (IPC eventually foreclosed on the property after Whitewater didn't make payments). In 1985, Governor Clinton had negotiated major tax concessions to keep International Paper from moving two of its plants out of Arkansas.

- The Clintons sold their "virtually worthless" interest in Whitewater back to James McDougal following Clinton's election to the presidency. Vincent Foster handled the transaction for the Clintons (*Newsweek*, 11/15/93).
- The *Washington Post* reported on November 11, 1993, that the RTC named the Clintons' business partners, the McDougals, as targets in an October 1992 referral to the Justice Department. According to a number of press reports, Bill and Hillary Clinton were also named in the referral as potential beneficiaries of a check-kiting scheme conducted by the McDougals, but there was no evidence they had any direct knowledge of it.

1993: FBI Raids an Office; Foster Found Dead; U.S. Attorney Recuses Self; Calls for Investigations to Begin

- The *Washington Post* reported on December 19, 1993, that the Clintons "found that the company had not filed tax returns for three years. Those returns were prepared by an Arkansas accounting firm under the direction of the late Vincent Foster. . ." and filed in June 1993.
- On July 20, 1993, a Federal Magistrate in Little Rock, Arkansas, authorized a search warrant for the offices of David Hale, a municipal judge and owner of Capital-Management Investment Corp. Hours later, Vincent Foster, Jr., left his office and committed suicide at Fort Marcy.

White House telephone logs show that in the hours before his death, Foster received calls from a former colleague in the Rose law firm and from Denver lawyer James Lyons who had prepared the Whitewater review for the campaign in 1992. Lyons called Foster about two hours before the deputy counsel left his office for the last time (*Washington Post*, 1/13/94), but Lyons claims that they did not connect.

- On November 9, the *Associated Press* reported that U.S. Attorney Paula Casey recused herself and her aides from the matter "because of their familiarity with some of the parties and the need to ensure that there be no misperceptions about the impartiality of the investigation."



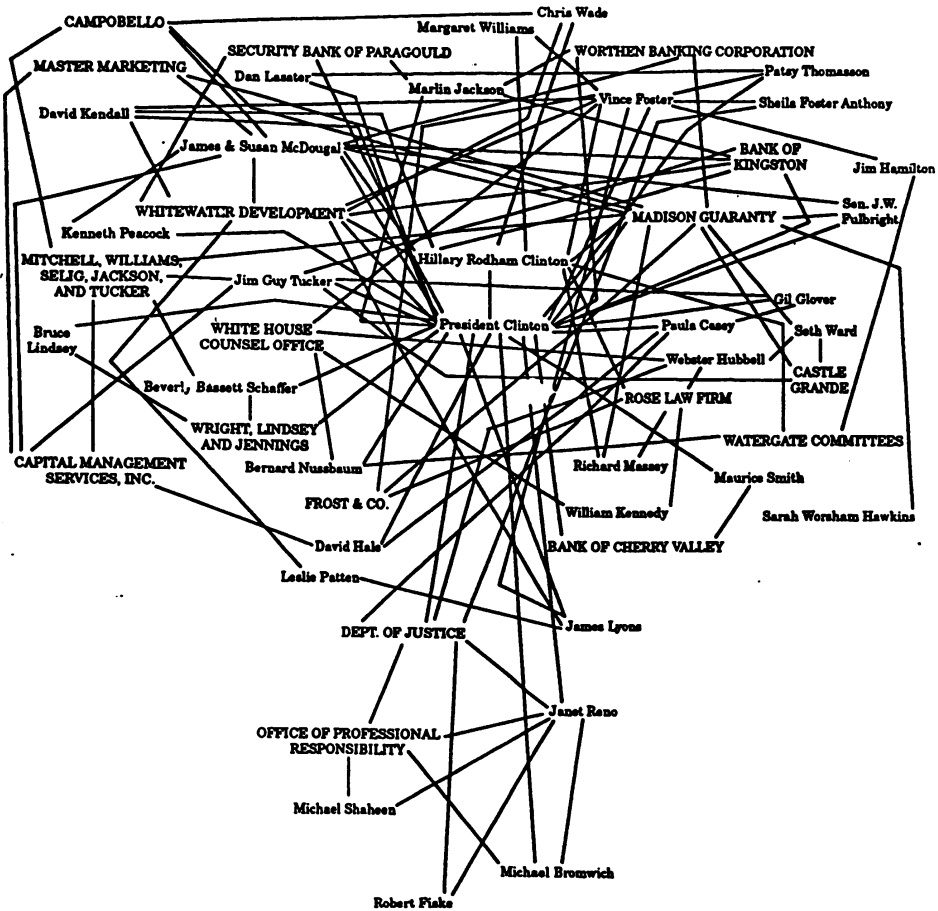
Republican Policy Committee Policy Primer

XJ 0272

Henry J. Hyde, Chairman

January 24, 1994

THE WHITEWATER FAMILY TREE



JANUARY 24th UPDATE

James Alford - Frost & Co.'s chief auditor; had two outstanding loans at Madison at the time his company was auditing Madison.

Beryl Anthony - former Congressman from Arkansas; husband of Sheila Foster Anthony; currently a lobbyist with Winston and Strawn.

Sheila Foster Anthony - Assistant Attorney General for Legislative Affairs; sister of Vince Foster; married to Beryl Anthony.

Bank of Cherry Valley (renamed **First Bank of Arkansas**) - a tiny Arkansas bank that was owned and operated by Maurice Smith, a senior aide to then Governor Clinton; issued Clinton a \$50,000 personal loan which he used to partially finance his campaign for governor; served as a repository for Clinton's 1984 gubernatorial re-election campaign funds; its current president, Leon Foust, was recently served a subpoena by FBI agents.

Bank of Kingston - a small Arkansas bank run by James McDougal; purchased by McDougal and then Clinton aides Jim Guy Tucker and Steve Smith in 1980; lent Hillary Clinton \$30,000 to pay for a model home in Whitewater development; provided a checking account for Whitewater which was used by both the Clintons and the McDougals; in 1983, was ordered by Marlin Jackson and the FDIC not to extend any more credit outside of its "natural trading" region.

David Barr - Federal Deposit Insurance Corporation (FDIC) spokesman; recently announced a FDIC investigation into whether the Rose Law Firm misled the FDIC about the firm's dealings with Madison Guaranty (if the FDIC finds that Rose misled them, the firm could be barred from doing additional work for the FDIC or the RTC).

Woody Bassett - Beverly Bassett Schaffer's brother; a law student of both Clintons; major Clinton contributor; helped manage Clinton's 1984 gubernatorial re-election campaign.

Michael Bromwich - former Clinton campaign volunteer; Carter administration political appointee; former employee of the Lawrence Walsh investigation of Iran-Contra; protege of Deputy Attorney General Philip Heymann; head of new Justice "watchdog" group that will eventually absorb Justice's Office of Professional Responsibility; reported to have been chosen as the new Inspector General at the Justice Department.

Robert Bryant - FBI agent who headed the bureau's Washington field office at the time of Vince Foster's suicide; claims that Clinton reviewed Foster's suicide note for executive privilege issues; has since been named to head the FBI's intelligence division.

X000274

Campobello - a Madison project to sell land on a Canadian island off the coast of Maine; invested in by James McDougal and Chris Wade; was Madison's largest direct real estate investment and its most costly real estate failure.

Capital Management Services Inc. - a federally sponsored small investment company whose activities *by law* were limited to "socially disadvantaged" businesses; owned by David Hale; issued several questionable loans to both Susan McDougal and Jim Guy Tucker; was raided by FBI agents on the day after Vince Foster's suicide.

Paula J. Casey - a Clinton-appointed U.S. Attorney in Little Rock; campaign volunteer in several Clinton gubernatorial races and student of Clinton at the University of Arkansas Law School; former legislative aide to Senator Dale Bumpers; turned down Randy Coleman's request that David Hale be granted immunity in exchange for testimony about Clinton and other Arkansas political figures (including Governor Jim Guy Tucker) who had secured loans from Capital Management; initially refused to recuse herself from the Justice Department's investigation of Whitewater but eventually did so following a public outcry, citing her "familiarity with some of the parties."

Castle Grande Project - a 1,100-acre real estate development on the outskirts of Little Rock which was intended to be a low-cost residential and commercial development for families seeking an escape from the city; financed by Madison Guaranty; invested in by Jim Guy Tucker and Seth Ward.

Bill Clinton - President; former Arkansas Governor; former Arkansas State Attorney General; former lawyer with Rose Law Firm's major competitor in Little Rock, Wright Lindsey and Jennings; former aide to Senator J.W. Fulbright; allegedly received campaign funds from James McDougal in the form of \$12,000 worth of donations in cashier's checks from Madison; co-owner of Whitewater Development Corp.; obtained a loan from the Security Bank of Paragould which he used to pay off more than \$20,000 of a Whitewater loan; obtained a \$50,000 unsecured personal loan from the Bank of Cherry Valley which he then contributed to his own gubernatorial campaign; called Vince Foster the night before his suicide.

Hillary Rodham Clinton - First Lady; former senior partner in the Rose Law Firm; former colleague of Bernard Nussbaum while working on the House Judiciary Committee to impeach President Nixon; co-owner of Whitewater Development Corp.; a partner in Value Partners; a partner in Midlife Investors with Webster Hubbell and Vince Foster; obtained a \$30,000 loan from the Bank of Kingston to pay for a model home in the Whitewater development; recipient of a \$2,000 a month attorney fee in 1985 for helping Madison Guaranty (assisted Richard Massey) fight off efforts by the Arkansas Securities Department to close it as insolvent (payments continued for 15 months while her husband was governor and allegedly were paid to Hillary Clinton through a secret bank account); asked the McDougal's in November 1988 to give her power of attorney authorizing her to act on their behalf on matters involving Whitewater (reports are unclear on whether or not she actually obtained it).

X000275

Randy Coleman - David Hale's lawyer; requested immunity for Hale in exchange for testimony but was turned down by Paula Casey; also contacted William Kennedy about Hale's allegations but was denied any sort of White House audience.

Roy P. Drew - E.F. Hutton broker who set up Midlife Investors; claimed "it would be a stretch of the imagination to believe that \$45,000 would not yield some kind of dividend" contrary to the Clintons' tax returns which show the partnership never yielded much taxable dividend income; a former advisor to the Arkansas state auditor who differed with Governor Clinton in 1989 over an \$81 million state bond deal to purchase 32 nursing homes owned by Beverly Enterprises, Inc. (The deal initially was approved by the state but was suspended when Drew's concerns became public).

Robert Fiske - a partner in the Wall Street firm of Davis, Polk and Wardwell (Lawrence Walsh retired from Davis, Polk and Wardwell before beginning his investigation of Iran-Contra); appointed by Attorney General Reno to be the Whitewater special counsel; former U.S. attorney in Manhattan during the Ford and Carter administrations; in 1989, withdrew from consideration to be the deputy attorney general under Dick Thornburgh because of opposition by conservatives (including 14 senators) over his role in the ABA's evaluation of Reagan court appointees; briefly defended Clark M. Clifford and Robert Altman in the BCCI case.

Lisa Foster - wife of Vince Foster; hired attorney Jim Hamilton after husband's suicide.

Vince Foster - former Deputy White House Counsel; committed suicide in July 1993; a partner in Midlife Investors; former partner in the Rose Law Firm; in that capacity, signed letter to the FDIC seeking the appointment to represent the FDIC against Frost and Co., claiming that Rose "does not represent any savings and loan associations in state or Federal matters"; the Clintons' lawyer in the last stages of their Whitewater dealings; sold the Clintons' half-ownership of Whitewater Development; discovered and handled Whitewater's failure to file corporate tax returns over a three-year period; (The Clintons have acknowledged that in 1984 and 1985 they improperly took personal tax deductions for interest payments of \$2,811 and \$2,322, when the payments were actually made by the Whitewater Development Co.); worked on putting the Clintons' assets into a blind trust to satisfy ethical concerns about their personal business deals including the two investment groups Value Partners and Midlife Investors.

Frost and Co. - Madison's accounting firm; produced the audit which was used by the Rose Law Firm to help keep Madison in business in 1985; failed to disclose that Frost's chief auditor of Madison, James Alford, had two outstanding loans at Madison at the time of the audit; sued by the Rose Law Firm on behalf of the FDIC (Rose settled the \$60 million suit for \$1 million. Some reports claim that the \$1 million was below Frost's insurance coverage. Rose billed the government \$400,000 for its work.)

J. William Fulbright - former U.S. Senator who hired both Clinton and McDougal as aides early in their careers; contributed \$1,000 to Jim McDougal's unsuccessful congressional campaign; his name was on a \$3,000 cashier's check made out to Clinton personally which the RTC turned over to the Justice Department; borrowed money from Madison; is ill and

X000276

unable to speak with reporters.

Mark Gearan - director of White House communications at the time of Vince Foster's suicide; claimed at the time that Clinton had not seen the suicide note; member of the newly formed Ickes group which is handling the political fallout from Whitewater.

Gil Glover - Paula Casey's husband; was appointed Chief Counsel to the Arkansas Public Service Commission by then Governor Clinton; continues to hold that state job under Governor Jim Guy Tucker.

David Hale - former Clinton-appointed, Little Rock municipal judge; president of Capital Management Services Inc.; indicted on fraud charges; represented by Randy Coleman; claims he was pressured by Clinton and McDougal to approve a Small Business Administration guaranteed loan (for the "socially disadvantaged") of \$300,000 to Susan McDougal at a time when the McDougal's showed assets of \$3 million; has offered to testify against Clinton.

Jim Hamilton - Washington lawyer specializing in ethics; former deputy counsel to the Senate Watergate Committee; possibly talked with Vince Foster prior to his suicide; represents Lisa Foster; recipient of Foster's personal effects including part of the missing Whitewater file and Foster's personal diary.

Jo Ann Harris - chief of the Justice Department's criminal division; has been supervising Justice's investigation of Whitewater; former New York prosecutor.

Philip Heymann - Deputy Attorney General (No. 2 person at the Justice Department); in charge of the Vince Foster investigation at the time the Park Police were asking to search the office; ordered the Office of Professional Responsibility to examine Foster's assertion in his suicide note that the FBI lied in a report to Attorney General Reno concerning Travelgate.

Webster Hubbell - Associate Attorney General (No. 3 person at Justice); close personal friend of Clinton; former managing partner of the Rose Law Firm; a partner in Midlife Investors with Hillary Rodham Clinton and Vince Foster; Rose's lead attorney for the FDIC case against Madison's accounting firm, Frost and Co.; recused himself from the Justice Department's investigation of Whitewater and Madison one month after the RTC referred the matter to Justice; son-in-law of Seth Ward who defaulted on \$587,000 in loans from Madison.

Harold M. Ickes - a New York lawyer; the new deputy chief of staff at the White House; heads the new damage control group which has been assigned to handle any political fallout from Whitewater (other members of the group include David Gergen, George Stephanopoulos, Bruce Lindsey, Mark Gearan, and Paul Begala); originally came to the White House to work on health care.

Marlin Jackson - former Clinton-appointed Arkansas state banking commissioner; claims that in 1983, he along with the FDIC ordered the Bank of Kingston to stop making loans to Governor Clinton because the loans were part of a "troubling pattern" of lending to powerful members of Arkansas' business (like executives of Wal-Mart and Tyson Foods) and political establishment; claims he spoke to Clinton about the matter and that Clinton's response was:

X000277

"Marlin, don't worry about politics. I want you to be the best banking commissioner you can be."; owned the Security Bank of Paragould; claims he put Paragould into a blind trust and did not find out until years later that Clinton had taken out a loan from Paragould to pay off more than \$20,000 of a Whitewater loan; has contributed \$4,010 to Clinton campaigns since 1984; currently the chairman of the Worthen National Bank of Conway, Arkansas; quoted as saying: "I've often thought that the reason he [James McDougal] began using Madison Guaranty was because he [McDougal] had found that he [McDougal] couldn't do what he wanted with his bank [Kingston]."

John C. Keeney - was Acting Assistant U.S. Attorney immediately after Paula Casey recused herself from the investigation.

David Kendall - lawyer for Williams and Connolly; "personal lawyer" to the Clintons in Washington handling such issues as Whitewater; continues to represent the Washington Post; secretly negotiated with the Justice Department to deliver the Whitewater documents under a subpoena (papers subpoenaed in a criminal case cannot be released under the Freedom of Information Act); was recently rebuffed when he asked the Justice Department not to share the papers with the Office of Professional Responsibility (OPR); (OPR is handling the Vince Foster suicide).

William Kennedy - White House Associate Counsel; former partner in the Rose Law firm; dismissed Randy Coleman's request for a meeting to discuss immunity for David Hale while failing to alert anyone else in the White House other than Bernard Nussbaum.

Dean Landrum - an employee of Charles Peacock; his name was on a \$3,000 cashier's check which the RTC turned over to the Justice Department; now deceased.

Bruce Lindsey - partner at Wright, Lindsey, and Jennings where Clinton was once employed; a senior assistant to the President; principal White House spokesman to the press on Madison S&L/Whitewater issues and recent state trooper allegations; member of the newly formed Ickes group which is handling the political fallout from Whitewater.

James M. Lyons - a Denver lawyer and longtime Clinton ally; during the presidential campaign, helped Clinton discredit the claims of several women who said they had relationships with Clinton; assigned by Clinton to review the Whitewater deal after it became a campaign issue; commissioned the accounting firm of Patten, McCarthy, and Associates, to investigate the Whitewater Development Corp.'s finances (see the so-called Lyon's report); now refuses to discuss Whitewater, citing an attorney-client relationship with the Clintons; reportedly called Vince Foster the morning of his suicide; recently named by Clinton to a government advisory panel seeking peace in Ireland.

The Lyon's Report - commissioned from the accounting firm of Patten, McCarthy, and Associates; depicted Whitewater as unprofitable, described the Clintons as "passive shareholders," and concluded that the McDougal's "exercised total control" over Whitewater; claimed that the Clintons poured \$68,900 into Whitewater without any return, while the McDougal's accounted for \$92,200; omitted Whitewater's \$550,000 land purchase from the International Paper Co. which Clinton granted tax breaks; included a disclaimer that the

X000278

report's financial findings "shouldn't be construed to represent the results of an attest service or compilation of financial statements, due to the nature of the engagement and incomplete or unavailable records."

Donald Mackay - former U.S. Attorney under Presidents Nixon and Ford; chosen to replace Paula Casey as head of the investigation of the Arkansas S&L; currently heads the Fraud Division at Justice.

Madison Financial Corporation - Madison Guaranty's wholly owned real estate subsidiary whose president was James McDougal; may have covered overdrafts at Whitewater.

Madison Guaranty - a Little Rock savings and loan which was shut down by the Federal Government in 1989, at an estimated cost to taxpayers of \$47 million to \$60 million; grew 25-fold during Clinton's governorship; owned by James McDougal; hired Sarah J. Worsham as a senior vice president.

Richard Massey - a partner in the Rose Law Firm; represented Madison Guaranty along with Hillary Rodham Clinton before state regulators.

Master Marketing - the Little Rock advertising firm owned by Susan McDougal which changed its company description to a real estate venture following the purchase of Whitewater; was issued a \$300,000 SBA/Capital Management loan.

James McDougal - owner of Madison Guaranty; part owner of the Bank of Kingston along with then Clinton aides Jim Guy Tucker and Steve Smith; president of Madison Financial Corporation; the Clintons' partner in Whitewater Development Corp.; met Clinton while working as an aide to Senator J.W. Fulbright of Arkansas; served for a year as then Governor Clinton's top economic adviser; spent \$90,000 in personal funds on an unsuccessful bid for Congress in 1982 against Rep. John Paul Hammerschmidt (one of McDougal's biggest contributors was J. William Fulbright); indicted in 1989 on fraud charges in connection with Madison and later acquitted; allegedly approved fraudulent loans of \$250,000 and diverted money to the campaign of several powerful Arkansas politicians including Clinton and Jim Guy Tucker; specifically is said to have diverted money from Madison Guaranty to help repay debts left over from Clinton's 1984 re-election campaign (the campaign's only debt was to Clinton who had contributed \$50,000 to help finance his own candidacy); claims to have delivered \$35,000 in campaign checks (some of which are suspected to have been improperly diverted from Madison) to Betsey Wright after a fund-raiser in the spring of 1985; has acknowledged that \$110,000 of the \$300,000 SBA/Capital Management loan to Susan McDougal was invested in Whitewater; claims Beverly Bassett Schaffer was his "choice" for Arkansas state regulator; maintains that then Governor Clinton lobbied him to hire Hillary Rodham Clinton to represent Madison because Clinton said "his family was in need of financial help"; claims he recalls the Clintons investing about \$9,000 in Whitewater; has been subpoenaed to appear before a Federal grand jury in Little Rock; suffers from manic depression.

Susan McDougal - ex-wife of James McDougal; partner in Whitewater Development Corp.; defaulted on a \$300,000 Small Business Administration loan made by Capital Services

X000279

Management Inc. to her Little Rock advertising firm, Master Marketing (more than a third of the money was used to buy land for Whitewater Development Corp. from the International Paper Co.); her name is on one of the \$3,000 cashier's checks which the RTC turned over to the Justice Department; recipient along with her brothers, James and William Henley, of substantial commissions for land sales from Madison Guaranty (including payments of more than \$712,000 during a three-year period while her husband was president of the S&L); claims to have turned records concerning Whitewater Development Corp. over to the Clintons in 1987 at Hillary Rodham Clinton's request; recently charged in California with embezzling nearly \$200,000 from conductor Zubin Mehta and his wife, Nancy.

Midlife Investors - a \$45,000 partnership with Hillary Rodham Clinton, Webster Hubbell, and Vince Foster naming each other (not their spouses) as beneficiaries; was finalized into a blind trust by Vince Foster three days after he committed suicide.

Mitchell, Williams, Selig, Jackson, and Tucker - law firm that at one time represented Madison Guaranty while one of its partners, Jim Guy Tucker, was securing a \$1 million loan from Madison Guaranty; also represented Capital Management Inc.; employed Beverly Bassett Schaffer as the attorney for Madison.

Bernard Nussbaum - White House Counsel; former colleague of Hillary Rodham Clinton while working on the House Judiciary Committee to impeach President Nixon; reportedly was the first to search Vince Foster's office after his suicide; refused to permit Park Police investigators to examine several documents, "citing executive and attorney-client privileges"; turned over a stack of papers including Foster's diary and part of the missing Whitewater file to Hamilton; supported William Kennedy's dismissal of David Hale's allegations.

Leslie Patten - head of the Denver-based accounting firm of Patten, McCarthy, and Associates which issued the Lyon's report; long-time friend of Jim Lyons; formed a bank holding company with Lyons and others (opened two banks, one of which was liquidated by Colorado state regulators).

Charles Peacock - father of Ken Peacock; a major Madison borrower and a member of the thrift's board of directors who claimed he was also baffled by the check (that was used to help retire Clinton's 1984 gubernatorial campaign debt) which bore the name of his son, Ken Peacock.

Ken Peacock - an Arkansas businessman whose name is on a \$3,000 cashier's check used to help retire Clinton's 1984 gubernatorial campaign debt (the RTC turned the check over to the Justice Department); says he never made such a donation (at the time, he was a 24-year-old college student).

Janet Reno - Attorney General; removed Michael Shaheen from the directorship of Justice's Office of Public Responsibility; asked by President Clinton to name a special counsel to investigate Whitewater on January 12, 1994 (This new investigation will not halt the Little Rock special grand jury probe of Madison); named Robert Fiske to be the Whitewater special counsel on January 20, 1994.

X000280

Rose Law Firm - prominent Little Rock law firm which at one time employed Hillary Rodham Clinton, Vince Foster, Webster Hubbell, William Kennedy, and Richard Massey; fought to keep Madison in business in 1985, when the Arkansas Securities Commission was threatening to close it down; later sued Madison's accounting firm, Frost and Co., on behalf of the FDIC; origin of a call (from an unknown caller) which was placed to Vince Foster the morning of the day he committed suicide.

Archie Schaffer - husband to Beverly Bassett Schaffer; nephew of Senator Dale Bumpers; was a large campaign contributor to Clinton's gubernatorial re-election campaign; currently an executive at Tyson foods (owned by Don Tyson who also is described as a serious Clinton financial backer).

Beverly Bassett Schaffer - the Clinton-appointed state regulator in charge of savings and loans in the early 1980s; approved Madison Guaranty's novel plan (which was never implemented) to sell preferred stock (after McDougal had helped Clinton cover his debt); previously served as Madison's lawyer while working at the law firm of Mitchell, Williams, Selig, Jackson, and Tucker (wrote a memo describing Madison's failure to comply with land law in the Campobello project as "willful"); currently employed at Wright, Lindsey, and Jennings.

Security Bank of Paragould - owned by Marlin Jackson; was supposedly placed in a blind trust by Jackson when he was appointed state banking commissioner; lent Bill Clinton money which he then used to pay off more than \$20,000 of a Whitewater loan.

Michael Shaheen - director of Justice's Office of Professional Responsibility for the past 18 years; involved in the investigation of Vince Foster's suicide note; removed from OPR by Attorney General Reno; reportedly will be offered a suitable position elsewhere by Reno; (OPR has been temporarily placed under the supervision of former Clinton campaign volunteer, Michael Bromwich).

Maurice Smith - a senior aide to then Governor Clinton who owned and operated the Bank of Cherry Valley; appointed Director of Arkansas State Highways and Transportation by Clinton.

The Stephens Family - controls the Worthen Banking Corporation and Stephens Brokerage Inc.; involved in the BCCI and BNL cases.

Patsy Thomasson - White House aide; veteran of Arkansas Democratic Party politics; was once an executive vice president at Lasater and Co. (Dan R. Lasater was the head of Lasater and Co. and a major Clinton contributor. Lasater and Co. earned some \$1.6 million in commissions for handling Arkansas state bond issues at the same time Dan Lasater was under investigation for cocaine distribution. Lasater was sentenced to 30 months in 1986. Lasater and Co. also hired Bill Clinton's half-brother, Roger); former Clinton-appointed chairman of the Arkansas Highway Commission; involved in the search of Vince Foster's office following his suicide.

Jim Guy Tucker - current Governor of Arkansas; received more than \$1 million in loans

X000281

from Madison at the same time his law firm, Mitchell, Williams, Selig, Jackson, and Tucker, represented Madison; investor with Seth Ward in Castle Grande, later negotiated a 50% reduction of his debt; secured loans from Capital Management Services Inc; former Clinton aide; owned the Bank of Kingston along with James McDougal and then Clinton aide Steve Smith.

Value Partners - Hillary Rodham Clinton's investment group; had about \$1.2 million invested in 10 health care stocks, or about 13% of its total portfolio in December 1992; "sold short" on several health care stocks after Hillary Rodham Clinton had become actively involved in Clinton's health care task force; was finalized into a blind trust by Vince Foster three days after he committed suicide.

Chris Wade - an Arkansas real estate agent; managed Whitewater throughout the 1980s on behalf of the Clintons and McDougal's; claims the Whitewater venture was not a "money loser"; claims that he suggested to Hillary Clinton that she seek power of attorney over Whitewater and that she purchase a model home on one of the Whitewater lots to try to spur sales; claims that he also suggested to Hillary Clinton that she buy back that same property from the owner who was failing to make payments on the property (Hillary Clinton followed Wade's advice in September 1988 and re-purchased the property for \$8,000 and then sold it two months later for \$28,000.); a partner with McDougal in Campobello.

Seth Ward - Webster Hubbell's father-in-law; was an officer at Madison Financial Corporation (a subsidiary of Madison Guaranty) at the time Hubbell represented the RTC against Madison; invested in the Castle Grande Project and defaulted on \$587,000 in loans from Madison; purchased the Piper Seminole airplane from James McDougal.

Whitewater Development Corporation - a land development company which evolved from a real estate partnership formed in 1978 by the Clintons and McDougal's; (The partnership purchased a 230-acre property located along the White River in the Arkansas Ozarks for \$203,000 by borrowing \$20,000 from Little Rock's Union Bank for the downpayment. In 1979, the property was substantially revalued upwards and transferred to the newly formed Whitewater Development Corporation. Four years later, the initial \$20,000 loan was refinanced at the Bank of Cherry Valley.); sold 24 Whitewater lots in 1985 in exchange for \$35,000 and a twin-engine Piper Seminole airplane valued at about \$30,000 (which was not reported on the Clintons' tax returns); purchased 810 acres from the International Paper Co. for \$550,000 with a \$110,000 down payment (part of Susan McDougal's SBA loan) in 1986; was structured to enable the Clintons to receive half of the profits with little or no investment; the Clintons sold their half-share to Jim McDougal for \$1,000 in December 1992; the Clintons' claim they lost \$68,900 on the deal although it is unclear how much the Clintons invested in Whitewater; (According to the IRS, the Clintons could have legally claimed \$3,000 annual deductions until the whole loss was written off.)

Margaret Williams - Hillary Rodham Clinton's chief of staff; former communications director at the Children's Defense Fund; former press deputy at the Democratic National Committee; involved in the search of Vince Foster's office following his suicide.

X000282

Sarah J. Worsham or Sarah J. Hawkins or Sarah Worsham Hawkins - one-time bank examiner for the Federal Home Loan Bank Board (FHLBB); wrote in a 1984 FHLBB report that Madison had engaged in "unsound lending practices" and had improperly booked, or recorded, profits that could "adversely affect net worth."; within months of the FHLBB report, was hired by Madison as a senior vice president at \$65,000 and worked on a refinancing and preferred stock plan to keep Madison in business; was a member of Madison's board of directors and a member of Madison's management committee which oversaw loans; according to a follow-up 1986 FHLBB investigation, was one of several Madison officers who obtained unsecured loans (Worsham/Hawkins obtained a \$5,000 unsecured loan) and signed a FHLBB cease-and-desist order for Madison.

Worthen Bank Corporation - held a lien on James McDougal's interest in Madison Guaranty; provided Clinton's Presidential campaign with a \$3.5 million line of credit days before Super Tuesday; controlled by the Stephens Family, which has been linked to the BCCI and BNL cases.

Betsey Wright - a longtime Clinton aide and his campaign manager in 1984; claims she recalls filing post-election contribution reports that included individual contributors for the 1985 spring fund-raiser (involving the four questionable checks) as required by state law but is unable to locate them; currently the executive vice president of the Wexler Group, a Washington public affairs which is a unit of Hill and Knowlton Inc.

Wright, Lindsey, and Jennings - a Little Rock law firm that has employed at one time or another Bill Clinton, Beverly Bassett Schaffer, and Bruce Lindsey.

Sources: Chicago Sun-Times, Chicago Tribune, Christian Science Monitor, Facts on File World News Digest, the Houston Chronicle, Human Events, the Legal Intelligencer, the Los Angeles Times, National Journal, National Mortgage News, Newsweek magazine, , the New York Times, the Philadelphia Inquirer, Representative James A. Leach's Memorandum to Republican Members of Congress regarding Whitewater, Roll Call, the San Francisco Examiner, Time magazine, the Times-Picayune, the Wall Street Journal, the Washington Post, the Washington Times, USA Today, and U.S. News and World Report magazine.

REDACTED

X000283

(Draft 1/10 5:00 p.m. (wne))

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

X000284

REDACTED

REDACTED

X000285

IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS

Mr. Foster committed suicide in July 1993. No files were removed from his office prior to an examination of those files by White House Counsel Bernard Nussbaum in the presence of law enforcement officers. In the presence of those officials, Mr. Nussbaum reviewed and noted the files in Mr. Foster's office, including a file related to Whitewater. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including Whitewater, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family. The few Whitewater files that were in Mr. Foster's office at the time of his death were sent to the Clintons' personal law firm for safekeeping and storage.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records to the Department. As would be entirely routine and to protect the integrity of the investigation, the President's lawyer requested a subpoena to cover the documents. Delivery of the documents to the Department began on January 6. Those documents will be reviewed by the grand jury investigating Madison in Little Rock.

X000286

U.S. SENATOR

Al D'Amato

NEW YORK

**News
Release**

Contact: Washington • Frank Coleman • 202/224-6406 New York • Zonia Mueh • 212/726-1111

FOR IMMEDIATE RELEASE:
Tuesday, March 1, 1994CONTACT: Frank Coleman
(202) 224-6498**D'AMATO BLASTS WHITE HOUSE STATEMENTS ON SECRET RTC BRIEFINGS**
"PATTERN OF DECEPTION" CONTINUES IN MADISON/WHITEWATER AFFAIR

WASHINGTON -- U.S. Senator Alfonso D'Amato (R-NY) today called for Senate Banking Committee hearings into secret briefings provided by the head of Resolution Trust Corporation (RTC) for senior White House political staff about the agency's investigation of the Madison/Whitewater affair.

D'Amato also charged that since the disclosure of the secret "heads up" was revealed at last Thursday's Banking Committee hearing, the White House was continuing its pattern of deception by suggesting that the same briefings were provided to Congress and the press.

"The White House has now compounded these shocking revelations by stating falsely that Congress and the media also received these briefings," D'Amato charged. "At the time this secret cabal was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our Committee with any information about its activities on the Madison/Whitewater issue. And I have yet to encounter a reporter covering this story who says he or she was briefed by the RTC, let alone its acting President."

D'Amato, senior Republican on the committee, added that the exposure of the secret briefings at a Banking Committee hearing proved that Democrats needed to end their "footdragging" over whether or not to hold hearings.

"Only through a Congressional hearing did we learn of this very real threat to the integrity of the RTC's investigation," D'Amato pointed out. "We have a responsibility to the American people to fulfill our legitimate oversight function."

"The Democratic members of this committee must understand the threat is not Congressional inquiry, but secret, high level off-the-record 'heads up' meetings between top Administration officials and White House legal and political experts," the Senator stated. The secret briefing, described as a "heads-up" by acting RTC head Roger Altman was presented to White House Counsel Bernard Muesbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Joan Hanson.

Among the questions D'Amato said could be answered by a hearing: Why does White House Counsel Mr. Muesbaum need to be briefed on the RTC's investigation of Madison that does not involve the President in his official capacity? And what about Mr. Ickes and Ms. Williams? Why in the world would these political operatives need to be briefed by a top agency official on an investigation that has nothing to do with the Executive Office of the President? Were any confidential or non confidential RTC or law enforcement documents or other materials used during the briefing?

-fc022894-

United States Senate • Washington, D.C. 20510 • (202) 224-6442

Regional Offices: New York (212) 661-1100 / Albany (518) 485-4800 / Syracuse (315) 485-2171 / Rochester (716) 553-6000 / Buffalo (716) 866-4111

X000287

WHITE WATER Q&A
Draft Transcript of the President's Q&A
Thursday, March 3, 1994

Q Mr. President, are you concerned about the appearance of impropriety of these meetings between Treasury officials and the White House?

X000288

THE PRESIDENT: Yes.

Q Have you been able to find out if there have been any other meetings other than the one that was reported? And what will be done about it?

THE PRESIDENT: Well, first of all, the answer is, yes, I'm concerned about that. Nearly as I can determine, no one has actually done anything wrong or attempted to improperly influence any government action. But I think it would be better if the meetings and conversations hadn't occurred.

I think now that there is an actual formal process underway, everyone will be much more sensitive. But I have directed Mack McLarty to prepare a memorandum about how we should handle and respond to any such contacts coming our way in this office so that we will bend over backwards to avoid not only the fact but any appearance of impropriety. It is very, very important to me.

I was a Governor for a long time, and there was never a hint of impropriety or scandal in my administration. And to the best of my knowledge the people who come here to work everyday in this administration, there has been no suggestion of abuse of power or anyone pursuing some personal advantage. And I want the American people to feel that. So I have told Mr. McLarty that we have to -- we've already talked to people here in the office to make it clear that they understand that I -- first of all, I feel that this -- all these investigations, they should go forward, unimpeded and as quickly as possible. And I have every confidence in what the facts will reveal. So I think that it's very, very important that while all this is going on that the activity around it should be handled in such a way as to avoid even the appearance of a conflict.

-continued-

03/07/94 13:51

0301 221 8707

INDEP COUNSEL

0001



TO: DOUG
SOSNIK

U.S. Department of Justice

Office of the Independent Counsel

X000289

W. L. Sullivan
S. J. Sullivan
1

Little Rock, Arkansas

March 7, 1994

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

The Honorable James A. Leach
Ranking Minority Member of the
Committee on Banking, Finance
and Urban Affairs
United States House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Congressmen Gonzalez and Leach:

I am writing this letter to express my strong concern about the impact of any hearings that your Committee might hold into the underlying events concerning Madison Guaranty Savings and Loan ("MG&L"), Whitewater and Capital Management Services ("CMS") on the investigation that this Office is conducting into these matters.

As you know, I was appointed to the position of Independent Counsel pursuant to CFA 603.1 on January 31, 1994. Since that date we have obtained an Order from Chief Judge Stephen M. Reasoner in the Eastern District of Arkansas authorizing the empaneling of a grand jury which will be devoted exclusively to the Whitewater/MG&L/CMS investigation. In the meantime, we have been using the regular grand jury for this District. We have a team of eight experienced attorneys, six of whom were current or former prosecutors when they joined the staff. We are working in Little Rock with a team of more than twenty FBI agents and financial analysts who are working full time on this matter. We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation.

X000290

** 200-3904 70101 **

03/07/84 13:51

0201 221 8707

INDEP COUNSEL

0001

Inquiry into the underlying events surrounding MO&L, Whitewater and CMS by a Congressional Committee would pose a severe risk to the integrity of our investigation. Inevitably, any such inquiry would overlap substantially with the grand jury's activities. Among other concerns, the Committee certainly would seek to interview the same witnesses or subjects who are central to the criminal investigation. Such interviews could jeopardize our investigation in several respects, including the dangers of Congressional immunity, the premature disclosures of the contents of documents or of witnesses' testimony to other witnesses on the same subject (creating the risk of tailored testimony) and of premature public disclosure of matters at the core of the criminal investigation. This inherent conflict would be greatly magnified by the fact that the Committee would be covering essentially the same ground as the grand jury.

While we recognize the Committee's oversight responsibilities pursuant to Section 501 of PL 101-73 (FIRREA), we have similar concerns with a Congressional investigation into the recently-disclosed meetings between White House and Treasury Department officials -- particularly because we believe these hearings will inevitably lead to the disclosure of the contents of WTR referrals and other information relating to the underlying grand jury investigation.

For these reasons, we request that your Committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving the fairness, thoroughness, and confidentiality of the grand jury process.

I will be glad to meet with you personally to explain our position further if you feel that would be helpful.

Respectfully yours,

Robert S. Fiske
ROBERT S. FISKE, ESQ.
Independent Counsel

ALTMAN MEETING--PRESS

Wednesday, February 23

Gannett reports that Senator D'Amato has prepared to grill Roger Altman on Whitewater during a "routine hearing Thursday on the health of the savings and loan industry":

The Republicans also plan to press Altman on the status of a long-standing RTC investigation of Madison Guaranty - a probe that in 1992 resulted in RTC referral to the Justice Department of nine separate areas of possible criminal behavior by thrift officials.

D'Amato was successful earlier this month in having the rapidly expiring statute of limitations on criminal negligence in the banking laws extended for two years. The RTC has hired a top private law firm for \$ 3.5 million to review the Madison Guaranty files for areas of possible prosecution - especially in light of scathing reports by federal regulators as early as 1984 and 1986 that held the savings and loan to be managed in a reckless manner and dangerously close to insolvency.

"When will those findings be made public?" D'Amato intends to ask Thursday. "Why has the RTC continually failed to respond to repeated requests from members of this committee for information and documents? Has the White House interfered, or has it received special briefings on this investigation?"

Friday, February 25

Altman's statements before the Senate Banking Committee were widely reported as an *admission* or *acknowledgment*. For example, the New York Times reported the statement as follows:

In a surprising admission, the head of a federal agency examining the failure of an Arkansas savings and loan at the center of the inquiry into the Clintons' real estate investments said he held a briefing three weeks ago for senior White House aides on the agency's progress.

Deputy Treasury Secretary Roger C. Altman, who is also the acting head of the Resolution Trust Corp., acknowledged Thursday under questioning by

X000292

Republicans on the Senate Banking Committee that he had met with the White House counsel, Bernard Nussbaum; the deputy chief of staff, Harold Ickes; and Hillary Rodham Clinton's chief of staff, Margaret Williams.

Altman said he had held the unusual briefing to tell the White House staff members that the examination into Madison Guaranty S&L had been running up against a statute of limitations problem and that the agency would soon be deciding whether it should proceed.

REAX

- o *Rep. Jim Leach ... said that the meeting was "thoroughly unseemly" and that it undermined "the credibility of the regulatory process." "Nothing could be more inappropriate." "The Resolution Trust Corp. should be arm's length from both the Executive Branch and from Congress. These are process issues that should be handled in appropriate ways." (Chicago Tribune)*
- o From the HOTLINE:

WHITEWATER: D'AMATO LEADS SENATE BANKING "DONNYBROOK"

The "donnybrook" Sen. Al D'Amato (R-NY) "dreamed of over the Whitewater mess came true (2/24) as Republicans turned a dry Senate banking hearing into a field day of coverup charges." D'Amato, the ranking GOPer on Senate Banking, dubbed the RTC's failure to release Whitewater documents until 10 pm the night before the hearing a "midnight delivery" and "said he was flabbergasted" at a recent FDIC report that found no conflict in the Rose Law Firm suing Madison Guaranty S&L for the FDIC when Rose earlier had been on retainer to Madison. D'Amato: "The most incredible whitewash of Whitewatergate that I've ever seen" (Ball, N.Y. DAILY NEWS, 2/25). "Besides seeking a renewed investigation by banking regulators," GOPers "also demanded that the (WH) and regulators release all documents related to the scandal." The WH refused citing the ongoing probe by special counsel Robert Fiske (Risen, L.A. TIMES, 2/25). The GOP "won assurances from regulators that there would be further investigations" into the Rose Law Firm (Baer, Balto. SUN, 2/25).

X000380

ALTMAN'S ADMISSION: Dep. Sec/Treas. Roger Altman said under questioning "that he held a private meeting with White House officials three weeks ago to brief them on one aspect of the Whitewater investigation. Altman, " the acting RTC head and "a close friend" of Pres. and Mrs. Clinton, "said he requested the meeting to talk about the then-approaching deadline for a civil suit against the Clintons, Hillary Rodham Clinton's former law firm or others concerning Whitewater." Altman said the meeting was attended by WH Counsel Bernard Nussbaum, Dep. WH CoS Harold Ickes and HRC CoS Margaret Williams. *D'Amato: "It is totally inappropriate for an appointed head of the RTC to go over and brief the White House. It certainly has all the appearances of a cover-up"* (Phelps, N.Y. NEWSDAY, 2/25). N.Y. TIMES' Labaton calls it a "surprising admission" and an "unusual meeting" : "Unusual because the (RTC) is an independent regulatory agency whose lawyers are supposed to operate without political considerations. Moreover, the meeting was attended by senior advisers to the Clintons, who are themselves the subject of the agency's investigations" (2/25). Altman said he "outlined various courses the RTC could take as it approached a (2/28) deadline for filing civil claims against Madison officers, directors and lawyers": "It was solely to be sure that (Nussbaum) understood the legal and procedural framework" (Schmidt, W. POST, 2/25). Altman, on the WH meeting: "I describe it as a heads-up and a very stiff conversation" (USA TODAY, 2/25).

....

DEM RESPONSE: Cmte Dems, led by Sen. John Kerry (D-MA), argued the GOPers were engaging in pure "politicking" (N.Y. DAILY NEWS, 2/25). Kerry "asked the Republicans why they only show up for S&L hearings when they want to put on a political show." Kerry: "This is why the taxpayers get so fed up, because all we do is dig into politics. We're not talking about where the \$150 billion went" (Cauchon, USA TODAY, 2/25).

Saturday, February 26

Altman announces recusal to the Whitewater investigation. The AP reported the recusal as follows:

In the short time he has remaining as acting head of the savings and loan cleanup agency, Deputy Treasury Secretary Roger C. Altman is severing all ties to the investigation of an Arkansas S&L involving President Clinton.

X000381

Altman announced his move Friday, a day after he acknowledged he recently gave the White House a private briefing on the status of the agency's investigation of Madison Guaranty Savings and Loan.

....

Altman's temporary tenure as head of the Resolution Trust Corp. is set to expire March 30, but until Friday he had not distanced himself from the Madison case.

....

Altman described the meeting as routine and said it involved only giving a general description to the White House of how the RTC generally proceeds in such cases. He said he initiated the session.

....

Republicans suggested the Altman incident was evidence of political meddling by the Clinton administration.

In its announcement, the Treasury Department said Altman "will have no role" at the RTC after his temporary tenure expires next month. He'll return to his job at the Treasury Department.

Sunday, February 27

- o New York Times editorial:

Slovenly White House Ethics

President Clinton and his helpers keep saying they have nothing to hide on Whitewater. So some evil genie must be making them act as if they do. The latest affront is the boneheaded conclave convened by Deputy Treasury Secretary Roger Altman to give a "heads up" to three White House officials about the Resolution Trust Corporation inquiry into a savings and loan association connected to Mr. and Mrs. Clinton.

Mr. Altman said he wanted to brief Bernard Nussbaum, the White House counsel, Harold Ickes, the deputy chief of staff, and Margaret Williams, the First Lady's chief of staff, on when the statute of limitations would run out on the R.T.C. investigation of Madison Guaranty Savings and Loan.

That is an interesting question and not unrelated to other questions that Republicans on the Senate Banking Committee and other reasonably curious Americans would like to have answered. Here are four:

X000333

1. Was Madison used to convert Clinton campaign funds to personal funds for the then Governor?
2. Did a regulator appointed by Governor Clinton go easy on Madison because it was owned by the Clintons' political ally, James McDougal, who was also the Clintons' business partner in the Whitewater Development Company?
3. Did the Clintons pay the same amount of money for their half share of Whitewater that Mr. McDougal paid for his? This question is important because it bears on whether Mr. Clinton, while Governor, received gifts or claimed undeserved tax deductions in connection with Whitewater.
4. Did Mrs. Clinton's law firm behave properly in its dealings with Madison and bank regulators?

Given that such questions are now before a special counsel and the R.T.C., a meeting between Mr. Altman and top White House aides was improper on its face. It could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the sham ethics of the early Reagan Administration. That crowd believed conflicts of interest could not exist since they could not conceive of letting any law or rule of propriety interfere with the political and financial interests of the President or his buddies.

The stated reason for this meeting will not wash. Information on the statute of limitations could be had from the newspapers or a brief memo from the R.T.C. legal staff. Senator Alfonse D'Amato and Representative Jim Leach therefore have reason to suspect that the goal of the meeting was to control political damage or compromise the R.T.C.'s investigation. Who knows what the White House has learned about the R.T.C. findings? After all, it was only through Mr. D'Amato's efforts that the Government released an R.T.C. document suggesting that Mrs. Clinton's law firm had failed at proper disclosure of its dealings with Madison.

In response to bad publicity, Mr. Altman has recused himself from the R.T.C. inquiry on Whitewater. His R.T.C. deputy should now take over all his duties at the agency until a permanent director is appointed. Senator Donald Riegle, the chairman of the Senate Banking Committee, needs to step up his committee's oversight activities. Other Democrats like Senator John Kerry need to cease their myopic defense of Mr. Clinton on a matter about which neither the Senator nor the public has been fully informed.

Opposition leaders are right when they say that a Republican White House that so recklessly meddled in the Justice Department, the R.T.C. and other agencies would be shelled with endless Congressional investigations. It is time for the Democratic Congressional leaders, Thomas Foley and George Mitchell, to try to educate this White House about the normal protocols of governance. Explaining what Representative Leach meant when he said "arm's length" would be a start.

Clinton aides behave as if their President had deep deposits of public trust. In fact, that account was pretty slim when Mr. Clinton got to Washington, and it is just about tapped out now.

Monday, February 28

o From the HOTLINE:

WHITEWATER: ALTMAN RECUSES HIMSELF FROM MADISON MATTERS

Dep. Sec/Treas. Roger Altman "removed himself from further official involvement in the government's Whitewater real estate probe after he came under fire for privately briefing top White House aides on key aspects of the case." Altman's appointment as acting head of the RTC ends 3/30. *His decision "represents a turnaround" as Altman "recently" told Rep. Jim Leach (R-LA), ranking GOPer on House Banking, "that he saw no conflict in his dealings with the case"* (Fritz/Rosenball, L.A. TIMES, 2/26). Altman said Madison presented no conflict for him, but that he "realized there was the appearance of conflict and decided to recuse himself for that reason." WH Press Sec. Dee Dee Myers defended Altman's meeting with WH Counsel Bernard Nussbaum, Dep. CoS Harold Ickes and HRC CoS Margaret Williams: "It was strictly a procedural meeting. There was nothing available that was not available to members of the press or Congress" (W. POST, 2/26). *Fred Barnes: "This is bad business. And it also shows how interested the inner White House staff is in the goings on with the RTC." Eleanor Clift: "I don't think there's anything more here than an appearance of conflict"* ("McLaughlin Group," 2/26).

ARKANSAS DEMOCRAT-GAZETTE's Oakley: "Altman said he saw nothing inappropriate about the briefing, a comment that just about sums up the general attitude of the Clinton administration" (2/27). N.Y. TIMES' William

X000384

Safire: "He's the man who's supposed to be the law enforcement consulting with the people he's supposed to enforce the law against." W. POST's Bob Woodward to Safire: "Is your old boss Richard Nixon or some of his political operatives advising the Clinton White House on public relations strategy?" ("Meet the Press," NBC, 2/27). A N.Y. TIMES editorial states the Altman meeting "could never have taken place in a White House that had even a rudimentary respect for the common-sense rules on conflict of interest. The Clinton team has taken the nation back to the sham ethics of the early Reagan Administration." The paper urges Senate Banking Chair Don Riegle (D-MI) "to step up his committee's oversight activities" and that Hill Dems, such as Sen. John Kerry (D-MA), "cease their myopic defense" of Clinton (2/27). A W. POST editorial also notes it was inappropriate for WH staffers to attend: "The Whitewater probe is a personal matter for the Clintons and does not involve the presidency" (2/28).

- o Washington Post editorial:

WHITEWATER RECUSAL

DEPUTY TREASURY Secretary Roger Altman's decision to recuse himself from all matters relating to the investigation of the Madison Guaranty Savings and Loan failure was belated but proper. Besides his personal friendship with President and Mrs. Clinton, Mr. Altman also serves as acting chief of the Resolution Trust Corp. It's the independent federal agency charged with disposing of collapsed savings and loans and pursuing civil and criminal cases against those associated with the failures, including officers, borrowers, accountants and lawyers.

Mr. Altman's disclosure last Thursday that he had recently briefed White House counsel Bernard Nussbaum and two top aides to Mr. and Mrs. Clinton on how the RTC would proceed with potential claims growing out of Madison's failure drew Republican charges that the White House was improperly involved in a case that affects the Clintons personally. On Friday, Mr. Altman said that while his briefing was confined to procedural issues confronting the RTC and not matters related to the Madison case, he had exercised "bad judgment" by initiating contact with the White House. "If I had it to do all over again, I wouldn't," he said. There are good reasons, however, why he should never have entertained the idea of going over to the White House in the first place.

Mrs. Clinton and her former Rose Law Firm partners represented Madison in the mid-1980s. Her firm also sued Madison's accountants on behalf

X000298

of the federal government in 1989. The Clintons were also business partners with James McDougal, owner of the failed Madison Guaranty Savings and Loan. The Clinton-McDougal joint investment in the Whitewater land venture also had a banking relationship with Madison. It was inappropriate for the head of an independent regulatory agency to give a "heads up" (to use Mr. Altman's words) to White House advisers of the Clintons who are his friends and who are also potential defendants in RTC civil suits.

If, however, it was wrong for appearances sake for Mr. Altman to offer a briefing, it was inappropriate for the same reason for Mr. Nussbaum, deputy chief of staff Harold Ickes and Mrs. Clinton's chief of staff Margaret Williams to accept the invitation. The Whitewater probe is a personal matter for the Clintons and does not involve the presidency. With the hiring of private attorney David Kendall to represent the Clintons' interests in "Whitewater," White House staff, absent a showing of an official link to the White House, should keep their hands off the probe.

Tuesday, March 1

o From the HOTLINE:

MORE ALTMAN: Sen. Min. Leader Bob Dole called for full Hill hearings into the Whitewater affair after revelations about the meeting between WH and Treas. Dept. officials. Also, Sen. Al D'Amato (R-NY), ranking GOPer on Senate Banking, plans to call today for the cmte "to look further into questions" involving Dep. Treas. Sec. Roger Altman's meeting at the WH. Altman, who later recused himself from the Whitewater affair, revealed last week that he met three WH officials about the affair (Lemons, DEM-GAZETTE, 3/1). N.Y. **NEWSDAY** editorial on Altman's meeting at the WH: "The White House shouldn't need reminders that political interference with bank regulators was one of the building blocks of the S&L scandals. We're unaccustomed to applauding (D'Amato) on matters of ethics, but in this case, he did a real service by focusing attention on the Altman meeting" (2/28). ST. LOUIS **POST-DISPATCH** editorial: "The appearance of impropriety is a concept that seemed alien to the Clinton White House last year at the time of the ... travel office scandal. There were lessons Clinton's top advisers should have taken away from that episode. Apparently, they didn't" (2/27). Dem strategist Bob Squier: "We Democrats have been out of the White House so long, we don't know quite how to act sometimes." GOP strategist Mary Matalin: "Incompetence is always the excuse" ("Today," NBC, 3/1).

X000299

Wednesday, March 2

- o A *Washington Times* article is attached.

X000300

SENATOR BOB DOLE**WHITE HOUSE POLITICS****MARCH 7, 1994**

(MR. DOLE.)
1

**MR. PRESIDENT, AS THE
WHITEWATER CONTROVERSY
GROWS, IT'S^{IS} NOT SURPRISING
THAT THE POLITICAL CHARGES
ARE HEATING UP AS WELL.**


**LAST WEEK, PRESIDENT
CLINTON HIMSELF MADE THE**

X000301

**UNFORTUNATE CLAIM THAT
REPUBLICANS ARE SOMEHOW
RESPONSIBLE FOR THE LATEST
WHITEWATER WOES, STATING
THAT WE HAVE ACTED IN A
"FAIRLY BLATANT, BALD, AND
TOTALLY POLITICAL WAY." AND
YESTERDAY, WHITE HOUSE AIDE
GEORGE STEPHANOPOLOUS
FORGOT THE PRESIDENTIAL**

X000302

**CAMPAIGN WAS OVER,
SUGGESTING ON NATIONAL
TELEVISION THAT REPUBLICANS
ARE SOMEHOW GINNING UP
WHITEWATER FOR OUR OWN
POLITICAL ADVANTAGE.**

**MR. PRESIDENT,
NOTWITHSTANDING THESE
CHARGES, WHICH I REJECT, IT'S** 
THE DEMOCRAT CONGRESS

X000303

**THAT CONTINUES TO BLOCK
WHITEWATER HEARINGS. IT
WAS THE CHAIRMAN OF THE
DEMOCRATIC NATIONAL
COMMITTEE WHO PLAYED
"POLITICAL TOUGH GUY" WHEN
HE TRIED TO INTIMIDATE
SENATOR D'AMATO WITH A
THREATENING LETTER NOTABLE
ONLY FOR ITS CLUMSINESS. IT**

X000304

^(not)
WASN'T AN R.N.C. NEWSLETTER
THAT RAN EDITORIALS WITH
TITLES LIKE "SLOVENLY WHITE
HOUSE ETHICS," "WHITE HOUSE
ETHICS MELTDOWN," AND "MR.
NUSSBAUM GOES--NOT THE
MESS." THAT'S ^{is} **THE NEW YORK**
TIMES AND THE WASHINGTON
POST.

AND, MR. PRESIDENT, THE

X000305

**BIGGEST POLITICAL PLAYERS IN
TOWN ARE APPARENTLY IN THE
WHITE HOUSE ITSELF: IN
TRAVELGATE, AND NOW IN
WHITEWATER, WHITE HOUSE
STAFF HAVE PLAYED WITH FIRE,
SHOWING A BRAZEN
WILLINGNESS TO MIX POLITICS
WITH LAW ENFORCEMENT.**

THE BOTTOM LINE IS:

X000306

WHITEWATER IS A CASE STUDY

IN SELF-

IMMOLATION...OMISSIONS,

MISSTATEMENTS OF FACT,

"NEGOTIATED" SUBPOENAS,

BEHIND-THE-SCENES

MEETINGS...HAVE ALL CREATED

THE IMPRESSION THAT THERE'S

SOMETHING TO HIDE, THAT

THERE'S ^{VS} SOMETHING UNSEEMLY

X000307

**LURKING IN THE WHITEWATER
BOG.**

**I MAY BE WRONG...AND I
HOPE I AM WRONG.**

**MR. PRESIDENT, LAST
WEEK, 43 SENATE REPUBLICANS
SENT A LETTER TO THE
DISTINGUISHED MAJORITY
LEADER STATING THAT WE WILL
HOLD UP THE NOMINATION OF**

X000308

**RICKI TIGERT, PRESIDENT
CLINTON'S NOMINEE TO HEAD
THE F.D.I.C., UNLESS THE
SENATE BANKING COMMITTEE
HAS THE OPPORTUNITY TO
THOROUGHLY EXAMINE THE
RECENTLY-REVEALED WHITE
HOUSE-RTC-TREASURY
MEETINGS. IT'S ^{11/5/}MY HOPE THAT
THE DEMOCRAT LEADERSHIP IN**

X000309

**CONGRESS WILL WORK WITH
REPUBLICANS TO SCHEDULE
THESE HEARINGS SO THAT THE
AMERICAN PEOPLE CAN GET A
FULL ACCOUNTING OF THE
WHITEWATER MESS.**

**AGAIN: IF THERE'S ^{has} BEEN
NO WRONGDOING, THERE
SHOULD BE NOTHING TO HIDE.**

AS I POINTED OUT LAST

**WEEK, THE CONGRESSIONAL
RESEARCH SERVICE HAS
PREPARED A MEMORANDUM
LISTING MORE THAN 20
CONGRESSIONAL HEARINGS
AND INVESTIGATIONS INTO
ALLEGED EXECUTIVE BRANCH
WRONGDOING DURING THE
REAGAN AND BUSH
ADMINISTRATIONS. THE**

X000311

**DEMOCRAT-CONTROLLED
CONGRESS HAS NEVER BEEN
SHY ABOUT EXERCISING ITS
OVERSIGHT
RESPONSIBILITIES, AND
THERE'S NO REASON TO MAKE
AN EXCEPTION FOR
WHITEWATER.**

**IF CONGRESS FAILS TO
EXERCISE ITS OVERSIGHT**

X000312

RESPONSIBILITIES, IF WE DON'T^(NOT)
HOLD HEARINGS, THEN WE
EXPOSE OURSELVES TO THE
CHARGE OF BEING WILLING
ACCOMPLICES TO WHATEVER
WRONGDOING MAY HAVE
OCCURRED.

MR. PRESIDENT, I ASK
UNANIMOUS CONSENT THAT

X000313

**EDITORIALS FROM YESTERDAY'S
NEW YORK TIMES AND
WASHINGTON POST BE
~~RE~~PRINTED IN THE RECORD ⁽¹⁾
~~IMMEDIATELY AFTER MY~~
~~REMARKS.~~ I ALSO ASK
UNANIMOUS CONSENT THAT THE
MEMORANDUM FROM THE
CONGRESSIONAL RESEARCH
SERVICE BE ~~RE~~PRINTED IN THE**

421

X000314

RECORD AS WELL.

###

Repairing the White House Mess

Robert Fiske has stepped into the Whitewater mess with precisely the authority and integrity that the White House, particularly in the person of Bernard Nussbaum, has so conspicuously failed to exhibit over the last few months.

By serving subpoenas on 10 senior White House and Treasury Department officials, Mr. Fiske, the special counsel appointed to look into the Whitewater case, has also served notice that he is expanding his inquiry to include the three extraordinary White House meetings at which the Resolution Trust Corporation's probe of a failed savings and loan association with close ties to the President and Mrs. Clinton was discussed.

The members of the Congressional banking committees, including reluctant Democrats, clearly have an interest in this matter. There are, for example, numerous regulatory issues involving the failed Arkansas savings and loan, Madison Guaranty. Moreover, senior officials at the agencies for which the committees have oversight responsibility have behaved improperly — notably Roger Altman, the Deputy Treasury Secretary, and Jean Hanson, Treasury counsel. They gave private briefings at the White House to keep Mr. Nussbaum, the White House counsel, and others posted on the R.T.C.'s investigation into Madison and the bank's dealings with the Clintons and their friends.

There is certainly a public value in having Congress conduct a carefully targeted examination of the incestuous relationships between the White

House and Federal investigatory bodies. Nevertheless, Congress should think twice before launching a parallel investigation of the whole history of Madison and the Whitewater development deal back in Arkansas. Such an inquiry, especially in the current partisan environment, could easily turn into an unending political circus and, even worse, jeopardize Mr. Fiske's independent inquiry and his ability to bring prosecutions, if warranted.

As for President Clinton, he has finally moved to repair the damage by his amateurish White House operation by persuading Mr. Nussbaum to return to private life. Mr. Nussbaum played a prominent part in other White House embarrassments, including the misuse of the F.B.I. in the Travelgate affair, the failure to properly vet various Presidential nominees and the apparent interference with the Park Service's investigation of the suicide of Vincent Foster, the deputy White House counsel. Given those past indiscretions, it was not surprising that Mr. Nussbaum was a central figure at all three of the improper White House meetings on Whitewater. It remains to be learned whether he was acting at Mr. Clinton's request.

There are two immediate lessons here. One is that Mr. Clinton desperately needs to get some good strong people around him to provide the White House with sound management and an ethical compass. The second is that the special prosecutor, Mr. Fiske, may have an even more challenging job than he, or anyone else, originally imagined.

New York Times (3/6/94)

REDACTED

X000316

**Briefing Book
Table of Contents**

Saturday - Sunday, January 15-16, 1994

NO PUBLIC SCHEDULE FOR SATURDAY

REDACTED
(56 pages)

X000317

REDACTED

(draft 1/7 1:30 p.m. (wne))

X000318

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

REDACTED

X000319

REDACTED

X000367

IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS

Mr. Foster committed suicide in July 1993. After his death, in the presence of law enforcement officers, White House counsel Bernard Nussbaum reviewed the files in Mr. Foster's office. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including Whitewater, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family. All of the Whitewater files that were in Mr. Foster's office at the time of his death were maintained by the personal law firm.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records to the Department. As would be entirely routine and to protect the integrity of the investigation, the President's lawyer requested a subpoena to cover the documents. Delivery of the documents to the Department began on January 6. Those documents will be reviewed by the grand jury investigating Madison in Little Rock.

X000321

REDACTED
(22 pages)

X000322

REDACTED

X000323

REDACTED

X000324

REDACTED

(14 pages)

X000325

Meet the Press Briefing

West Wing Office

2:15 - 2:45 pm, Friday, March 4, 1994

**You requested this meeting.
No briefing.**

EVENT

You requested this meeting with Lorraine, Jack, David, George Stephanopoulos, Dee Dee Meyers, David Gergen and Mark Gearan in preparation for your appearance on Meet the Press this Sunday. Attached are a couple of new Q&A on Whitewater, and a couple of other topics, you may want to review for this meeting.

ATTACHMENTS

- Whitewater Q&A

X000327

WHITE WATER Q&A
Draft Transcript of the President's Q&A
Thursday, March 3, 1994

Q Mr. President, are you concerned about the appearance of impropriety of these meetings between Treasury officials and the White House?

THE PRESIDENT: Yes.

Q Have you been able to find out if there have been any other meetings other than the one that was reported? And what will be done about it?

THE PRESIDENT: Well, first of all, the answer is, yes, I'm concerned about that. Nearly as I can determine, no one has actually done anything wrong or attempted to improperly influence any government action. But I think it would be better if the meetings and conversations hadn't occurred.

I think now that there is an actual formal process underway, everyone will be much more sensitive. But I have directed Mack McLarty to prepare a memorandum about how we should handle and respond to any such contacts coming our way in this office so that we will bend over backwards to avoid not only the fact but any appearance of impropriety. It is very, very important to me.

I was a Governor for a long time, and there was never a hint of impropriety or scandal in my administration. And to the best of my knowledge the people who come here to work everyday in this administration, there has been no suggestion of abuse of power or anyone pursuing some personal advantage. And I want the American people to feel that. So I have told Mr. McLarty that we have to -- we've already talked to people here in the office to make it clear that they understand that I -- first of all, I feel that this -- all these investigations, they should go forward, unimpeded and as quickly as possible. And I have every confidence in what the facts will reveal. So I think that it's very, very important that while all this is going on that the activity around it should be handled in such a way as to avoid even the appearance of a conflict.

-continued-

X000354

Later today, I think, we will have the memorandum for you, and we'll be glad to answer any questions surrounding that.

Q Well, shouldn't your lawyer be more sensitive to this -

THE PRESIDENT: I think there was a difference -- what we have to do -- let me say, we are also researching exactly what the actual rules are for what kinds of meetings can occur when. And I don't want to get into all the hypotheticals. But, for example, if the press asks questions to one place that are known and another place, the answers might be known in the White House; if someone's asking the agency, can they talk or not, I mean, that was one of the meetings that was discussed in the morning paper.

I want to make exactly -- I want to make it clear that we know what the rules are, but as I said -- and so I can't answer all those questions, in fact, right now. But in addition to what the rules are, what I want the people here to understand is, never mind what the rules are, bend over backwards to avoid the appearance of it. Let's let this thing go forward. There is an investigative process. The records are in hand, as far as I know, for the investigators to do their work. Let it go forward. We don't need to have any implication that we are in any way trying to manage or affect this process. We are not. We must not. And I don't want the American people to give it a second thought.

So the memorandum today should make that clear. And I don't think there will be further problems on this.

Q Mr. President, can you elaborate for us on your conversation with Prime Minister Hosokawa?

THE PRESIDENT: Well, I called him to discuss the -- the trade issue. And the Trade Ambassador will have an announcement on that later today, and then we'll be glad to answer questions about it. But I think I should let him announcement first.

Q -- was it a friendly conversation --

THE PRESIDENT: It was a friendly, a forthright conversation. It's consistent with the tone that we've established in our relationship. But it was one that I had to have today.

Q -- Super 301?

THE PRESIDENT: We'll have an announcement about that later today.

-continued-

THE BULLETIN'S **MORNING DIGEST**

FROM THE PUBLISHERS OF THE WHITE HOUSE BULLETIN

MEMORANDUM FOR BERNIE NUSSBAUM
 — OFFICE OF THE COUNSEL
 JOEL KLEIN

X000390

DATE: FRIDAY, FEBRUARY 25, 1994 -- 8:00 AM - EST

LEADING THE NEWS

Arab World Condemns West Bank Massacre. The Arab world is "ringing with condemnations of this morning massacre in a West Bank mosque, but there are differences of opinion as to how it will affect the Mideast peace process," the AP reports today. At least 50 Palestinians are reported dead and about 100 wounded after an American immigrant opened fire on a mosque in the West Bank. The shooting triggered rioting across the West Bank and Gaza. PLO Chairman Yasser Arafat said the

killings will have a "serious impact" on the negotiations. A too aide to Arafat went even further, saying he sees "no feasibility" in continuing the process. Hanan Ashwari said her people are too "inflamed" at the moment to even think about a "rational peace process." Jordan's prime minister said the massacre will be an "impediment" to peace. Egypt's foreign minister says the violence confirmed the need for assuring Palestinian security "and not that of Israel alone." (Related stories: AP; WP-A1)

NATIONAL & INTERNATIONAL NEWS

US Gets No Cooperation From Russian Spy Agency on Ames Case; Administration Continues to Defend Russian Aid. The WP (A. Devroy, J. Smith) reports a "high-level" CIA team sent to Moscow to discuss the case of accused-spy Aldrich Ames, was "unable to extract useful information from the Russian Foreign Intelligence Service and is on its way back to Washington." The Russian spy agency's response "fell short of the Clinton Administration's demand for cooperation, the officials said, adding that the matter was raised yesterday 'at a higher level' of the Russian government but with no response so far." The NYT (T. Weiner) reports Ames will fight the charges against him, "raising the prospect of a messy trial that could involve secrets the agency would rather not disclose." The lawyer for Ames' wife, Maria del Rosario Casas Ames, also issued a statement yesterday denouncing the accusations in an FBI affidavit that was unsealed on Tuesday after the couple was arrested. If the Ames' case is brought to trial, "it would set the stage for a potentially damaging tug of war between the intelligence agency's desire to preserve national security secrets and the Justice Department's need to make a case against the couple," the NYT reports. USA (S. Meddis) reports the Clinton Administration is defending its Russia

policy to Congress. Secretary of State Warren Christopher, on Capitol Hill yesterday, rejected calls from some to suspend Russian aid. In a USA/CNN/Gallup poll conducted yesterday, 67 percent said the US should continue efforts to improve relations with the Russians and 50 percent opposed suspending aid. (Related Stories: USA-A1; NYT-A1; WP-A1; WSJ-A16; WT-A1,

Yeltsin Says Reforms Will be Slowed. Russian President Boris Yeltsin said yesterday the Russian government must begin playing a much larger role in shaping Russia's economy, rejecting the free-market philosophy of his former top advisers, the BG (F. Kaplan) reports. In a speech to parliament yesterday, Yeltsin also expressed opposition to expansion of NATO to include countries of the former Soviet bloc and called for action against crime and corruption. Although he said economic reforms must continue, he indicated a desire to slow down and redirect the reforms. "The biggest mistake that can be made now is to offer society a false choice: either the former state-directed economy or the so-called pure market totally independent of the state," Yeltsin said. "Both options spell disaster for Russia ... The task is to find a sensible balance between the speed of reform and

AP, Associated Press
 AC, Atlanta Constitution
 ADG, Ark. Democrat-Gazette
 BG, Boston Globe
 BS, Baltimore Sun
 CSM, Christian Science Monitor

CT, Chicago Tribune
 FT, Financial Times
 JOC, Journal of Commerce
 LAT, Los Angeles Times
 MH, Miami Herald
 ND, Newday

NYT, New York Times
 PI, Philadelphia Inquirer
 USA, USA Today
 WP, Washington Post
 WSJ, Wall Street Journal
 WT, Washington Times

X00C391

the real social costs of reform." He did not say what this balance should be or how the programs it requires could be financed. The AC (M. Kinsler, J. Albright) reports Yeltsin targeted the same not-button populist issues that drew votes for Communists and nationalists in the recent parliamentary election. For instance, he signaled that Russia was ready to resume a "more active" foreign policy and to "flex its muscles regionally, especially on behalf of Russians subjected to discrimination in neighboring republics." (Related Stories: BG-A2; WP-A1, 24; USA-A5; NYT-A6; WSJ-A8; WT-A14)

Study Shows Most Americans Support Employer Mandates; Cooper's Plan May Be As "Big Government" As Clinton's. According to a study released yesterday, about 57 percent of Americans support the most controversial portion of President Clinton's health care reform bill: a requirement that businesses pick up 80 percent of the tab for employees' medical insurance premiums, the AC (B. Hendrick) reports. The study conducted by the Public Agenda Foundation also found that 65 percent of Americans support Clinton's promise to provide universal health care, even though people realize to do so would cost everyone.

Rep. Jim Cooper's health care reform bill, which emerged as the rival to Clinton's plan when corporate America embraced his plan three weeks ago, is "in many ways as far-reaching as anything proposed by President Clinton," the BG (P. Gosselin) reports. Cooper has advertised his plan as "Clinton Lite" -- "criticizing the President for pushing Big Government cures for the nation's medical ills, and claiming his own are modest by contrast." However, according to the BG, "If Cooper has cast his bill as the moderate alternative to Clinton, he has also contributed to the misperception that it is a largely painless prescription for change. Some of his reforms would involve transformations as wrenching as any Clinton has advocated, and require a substantially greater use of Federal power and purse than has been generally appreciated." If Cooper listens to the Jackson Hole Group, an "informal but influential collection of doctors, academics and industry executives," the plan could grow even "grander." Jackson Hole founder Paul Elwood said the group will likely call on Cooper to embrace two elements of Clinton's plan that he has so far shunned: "Setting a deadline for universal coverage for assuring that all Americans have coverage, and using a kind of employer mandate or requirement that companies contribute to their workers' coverage." Meanwhile, the NYT (R. Pear) reports the board of the American Association of Retired Persons has decided not to endorse Clinton's health plan, despite a concerted campaign by Clinton and First Lady Hillary Rodham Clinton. The board also did not endorse any specific alternative to Clinton's plan. (Related Stories: BG-A1; AC-A5; ND; WP-A4; USA-A5; NYT-A1, 15; WSJ-A16; WT-A4, 7)

White House May Propose Phase-In Of 2-Year Welfare Limit; May Need More Tax Increases to Finance. The WP (W. Claiborne) reports the White House task

force on welfare reform has decided to recommend gradually phasing in its two-year limit on welfare benefits. If President Clinton's welfare reform goes into effect next year, the limit on benefits would initially be applied only on new recipients -- possibly to only those 25 and under. As new recipients apply in subsequent years, the age would automatically be advanced one year, the WP reports. The NYT (J. DeParle) reports the Clinton Administration is considering tax increases to finance its welfare plan. Finding it difficult to produce a welfare plan on spending cuts alone, the Administration is considering targeting gambling establishments to raise the needed revenue. Although no decision has been made on whether to propose the taxes, "The talk of taxes contradicts the Administration's previous contention that President Clinton can pay for his ambitious plan to change the welfare system simply by cutting other programs for low-income people." OMB Director Leon Panetta acknowledged yesterday that a gambling tax was among the possibilities to supplement the cuts in programs. However, Panetta said the Administration is "looking at 40 or 50 options and that is one of them." (Related Stories: NYT-A16; WP-A1)

Alternative Balanced Budget Amendment

Introduced. Senator Harry Reid (D-NV) introduced an alternative balanced-budget amendment which Senate leaders agreed to vote on next Tuesday, the WP (H. Dewart) reports. "It has the potential to do some harm," said Senator Paul Simon (D-IL), chief sponsor of the original amendment being debated yesterday. The risk for supporters of the Simon-backed amendment "was that senators could inoculate themselves against damage at the polls by voting for the scaled-back alternative, which was virtually certain to lose because of GOP opposition, and then vote without risk against the [Simon] amendment." While Simon described Reid's plan as "balanced budget lite" and a "political cover, pure and simple," Reid said it was a "serious attempt" to achieve a balanced budget without creating "legal nightmares debilitating the Constitution" and putting a "fatal chokehold on the American economy." Reid's alternative would fit the constraints during a recession, exempt "capital investments" such as buildings and highways, bar Social Security funds from being used to balance the budget, and drop the requirement for a three-fifths vote to increase the debt. (Related stories: WP-A4; USA-A5; NYT-A14; WT-A4)

Republicans Charge Whitewater Whitewash. Senate Republicans "blasted Democrats and Federal officials Thursday for 'stalling' and 'whitewashing' investigations into the Whitewater Development Corp. controversy," the ADG (T. Lemons) reports. In the first extensive congressional hearing on Whitewater Republicans "attacked the Clinton Administration's handling of several Federal investigations. GOP senators also continued to raise conflict-of-interest questions" about Little Rock's Rose Law Firm. "There are just too many unanswered questions," Senate Alfonse D'Amato (R-NY) said. Democrats responded during the four-hour Senate Banking Committee hearing by arguing "The

X000392

Republicans were pursuing Whitewater solely to damage" President Clinton. "The taxpayers of this country do not need us to jump all over each other for political reasons," Senator John Kerry (D-MA) said. Kerry and D'Amato "traded sharp words several times during emotional exchanges." D'Amato chastised the Resolution Trust Corporation officials for "stalling" on the case by failing to promptly reply to his request for information.

The NYT (S. Labaton) reports that "in a surprising admission, the head of the Federal agency examining the failure of Madison Guaranty Savings and Loan" said he held a briefing three weeks ago for senior White House aides on the agency's progress." Deputy Treasury Secretary Roger Altman, who is also acting head of the RTC, "acknowledged today, under questioning by Republicans on the Senate Banking Committee that he had met with the White House counsel, the deputy chief of staff, and the First Lady's chief of staff. Republicans "immediately pointed to the briefing as evidence that the White House has been controlling" the inquiries regarding Madison and Whitewater.

The WSJ (A. Karr) reports, however, that the RTC suggested yesterday that the Rose Law Firm "may have improperly failed to disclose its dealings" with Madison. The RTC's contractor-oversight office "listed several instances when the firm didn't disclose its past connections" with Madison to the RTC and the FDIC. The WT (T. Munroe) reports that, "under pressure from Republican lawmakers," FDIC regulators "agreed yesterday to reopen their probe" of Rose and its dealings in the Whitewater-Madison affair.

The WT (J. Seper) also reports Federal investigators have "subpoenaed records describing more than \$283,000 in personal loans to President and Mrs. Clinton from four rural Arkansas banks." Special Counsel Robert Fiske issued a request for "all documents" outlining the Clintons' involvement with the banks during an 11-year period beginning in 1978, the year Whitewater Development Corp. was formed. (Related stories: WP-A9; ADG; USA-5; NYT-A1; WSJ-A2; WT-A1, A12)

Hill Republicans To Investigate Foster Death.

Republicans on the House Government Operations Committee "have launched a new investigation" into the death of Vincent Foster. The WT (P. Rodriguez) reports Representative William Clinger (R-PA) said on the House floor yesterday that he has written to senior Administration officials for all documents, and he requested that Administration personnel be made available for interviews with committee staff. If the Administration refused to comply, "the GOP members of the committee are considering invoking a little-known House statute that compels compliance," the WT says. (WT-A3)

"Clinton Chicago Trip Gives Reno Pause." Attorney General Janet Reno yesterday "set off alarm bells at the White House when she appeared to suggest disapproval of President Clinton's Monday trip to Chicago to support House Ways and Means Committee Chairman Dan Rostenkowski, subject of a Federal criminal investigation," the WP (M. Isakoff, A. Devroy) reports. Asked yesterday at her weekly news conference if she

had any views on whether the President's trip was appropriate, given the status of the Rostenkowski investigation, Reno said "Yes." She then refused to reveal her views, saying at one point, "I don't think I'll go into that." White House officials said Reno's statements were "inartful." They also said she had not advised the President or anyone at a lower level that she believed presidential support for a candidate under Federal investigation was inappropriate. Officials said Rostenkowski is "key to a group of major White House legislative initiatives and that Clinton offered to help him by coming to his district." (WP-A3)

US, Japan May End Trade Fight. The US and Japan "may be inching toward an end to their bitter trade dispute," the USA (M. Memrott) reports. "A top Clinton Administration negotiator said Thursday that he's getting encouraging reports from Japan," the USA says. Bowman Cutler, deputy assistant to the president for economic policy, told reporters yesterday that Japanese leaders may be deciding that what the US has asked for "is something close to what they always could have lived with." Nevertheless, the FT (G. Graham) reports, the US yesterday accused Japan of acting as "a drag on the world economy." Treasury Secretary Lloyd Bentsen called for more action to expand economic recovery in the G-7 countries, particularly in continental Europe and Japan. Bentsen's accusation set the stage "for confrontation at Saturday's meeting in Frankfurt" of G-7 finance ministers, the FT says.

Meanwhile, the JOC (J. Maggs) reports House Majority Leader Richard Gephardt (D-MO) yesterday introduced a bill designed to "reinforce the Clinton Administration's Japan trade policy, a sharp departure from previous proposals aimed at forcing reluctant Republican presidents to get tougher with Japan." The bill, sponsored in the Senate by Jay Rockefeller (D-WV), "is much more moderate" in its approach than previous Gephardt proposals. Instead of emphasizing the use of trade sanctions, the bill would require two annual reports by the Commerce Department and the US Trade Representative describing Japan's trade barriers and laying out "objective criteria" to use as goals for increasing US access to the Japanese market to a level matching US access in other countries. The results of these reports could be used as the basis for US trade action under its Section 301 law, but action is not as mandatory as it would have been under previous Gephardt proposals. (Related stories: USA-B1; WSJ-A1; FT-A5; JOC-A3)

Study Urges Calm On North Korea Nukes. A panel led by former top US officials called yesterday for a "more cool-headed approach to North Korea's nuclear weapons program, saying there is a good chance for a diplomatic settlement if Washington and its allies do not let themselves be thrown off by Pyongyang's erratic negotiating tactics," the WT (W. Strobel) reports. The panel said the pressure to deal is on North Korea "because of its sharp economic downturn and inability to break out of isolation." Former assistant secretary of state Richard Solomon said the nuclear threat is serious, but a "sense of helplessness in negotiating" misplaced. (WT-A14)

X000393

Cuban Exiles Tell Clinton Don't Lift Embargo. According to the MH (A. Chardy), "Cuban exiles converged on Thursday to deliver a message to President Clinton: Do not lift the trade embargo on Cuba. (MH-A1)

"Ripples Spread From Megamerger's End." The "unraveling of the marriage between the giant phone company [Bell Atlantic] and the world's largest cable television operator [TCI] shocked Wall Street yesterday, causing a drop in the stocks of many telecommunications companies," the WP (S. Sugawara, P. Farhi) reports. Industry analysts said the split "will cause others to reconsider alliances as the television, computer and telephone industries begin to converge." Under the headline, "Republicans Lash the Administration Over the Bell-TCI Collapse," the WSJ reports Senator Robert Dole (R-KS) "blasts" Vice President Gore "for backing the 1992 cable bill and predicts FCC Chairman Hundt's policies will stifle new telecommunications services." A NYT (S. Lohr) news analysis is in apparent agreement with the Republicans, saying the merger "collapsed because, after the deal-makers looked hard at the financial markets and tighter government curbs on cable television rates, the dollars and cents no longer seemed to add up." (Related stories: WP-A1; NYT-A1; WSJ-A1)

Surgeon General Report Says Tobacco Companies Target Kids. A report issued by Surgeon General Joycelyn Elders says that if kids can get through high school without smoking, they will probably never start, USA (N. Carroll) reports. The Surgeon General's report, the 23rd on smoking and health issued since 1984, is the first to focus only on children. Elders called for a ban on tobacco ads, saying: "We shouldn't advertise something we know to be a poison and a killer." She also urged the Federal Trade Commission to pull R.J. Reynolds' Joe Camel ads, which critics say target children. The report analyzes 40 years of research from more than 150 scientists and found: "89 percent of daily smokers first lit up by age 15. Teen smokers are more likely to use pot and cocaine, get in fights, carry weapons and practice unsafe sex. 80 percent of the studies in the report found a link between low grades and smoking." (Related Stories: USA-A1; WP-A1; NYT-A12; WT-A6)

"Aristide Renews Call to Tighten Embargo." The BG (J. Milne) reports deposed Haitian leader Jean-Bertrand Aristide last night spelled out his plan to restore democracy to his island country. In a speech at Dartmouth College yesterday, Aristide stressed some of the same elements that he included in a letter sent to the UN Security Council this week. He called for the US to back UN plans to tighten the economic embargo against Haiti. The UN has been ready for several weeks to impose tougher sanctions against Haiti, but US officials have held out for a political settlement, arguing that tougher economic sanctions will only make life worse for average Haitians. Aristide said: "A total commercial embargo is needed. A swift and intense measure designed to force the coup leaders out will be supported by Haitians. Haitians

have been suffering under an embargo for 20 years. An embargo that finally has as a goal the restoration of democracy will be welcomed." According to the BG, Aristide "appeared to be using the speech in an effort to regain political and diplomatic momentum that weakened as US support seemed to become more tentative." (BG-A2)

Bosnian Peace Talks in Washington Offer Hope. The AC (B. Deans) reports Bosnian peace talks to be held in Washington this weekend "hold out the first real hope for a comprehensive settlement of Europe's bloodiest conflict since World War I." "On the table is an idea to hold Bosnia together as a single, multi-ethnic state, but to carve out within it a separate and largely autonomous homeland for Bosnian Serbs. That could solve a number of difficult problems, including Bosnia's demand for free and unfettered movement of people and goods across the country and access to the Adriatic Sea." According to the AC, "there's reason for optimism." Until a year ago, Croat and Bosnian government forces were united against the Bosnian Serbs. Territorial disputes led to fighting between the forces. But representatives from the Croatian and Bosnian government will try to work out a deal this weekend to merge Croat-held territory back into a multi-ethnic Bosnia. (Related Stories: AC-B5; WP-A26; USA-A1, 6; NYT-A1, 8; WT-A1)

"House OKs Home School Shield." The AC (M. Christensen) reports the House voted overwhelmingly yesterday to protect parents who teach their children at home from possible government licensing or control. Rep. William Ford, Chairman of the House Education and Labor Committee, "grumbled that the debate was unnecessary -- "a solution without a problem." But his colleagues were anxious to address the flood of phone calls over the issue. The furor centered on an amendment by Rep. George Miller (D-CA) to a bill extending most Federal elementary and secondary education programs another five years. Miller was looking to prevent public school systems from assigning teachers to subjects in which they have no training or certification. But parents who teach their children at home took the wording as a potential threat to license all teachers, even parents. Rep. Dick Armey (R-TX) vowed to correct the problem with an amendment that would shield private, religious and home schools that do not receive Federal money from Federal control. Armey's amendment passed, but many parochial schools worry that it might jeopardize what aid they now receive from the government. (Related Stories: AC-A4; WP-A4 [AP]; WT-A1)

Administration Proposes Overhaul of Export Control Rules. The NYT (T. Friedman) reports the Clinton Administration yesterday proposed the first major overhaul of American export controls since the Cold War. The plan aims to ease the sale abroad of machine tools, telecommunications equipment and other devices that had been restricted because they could be used to make weapons of mass destruction. Administration officials said the legislation to rewrite the 1979 Export Administration Act, which

X000394

expires in June, "is intended to balance the Administration's commitment to non-proliferation with its desire to promote and increase American exports, a driving force in the economic recovery." However, the proposed legislation did not please the business community, which found it still too restrictive, nor the arms control community, which said it would "open the floodgates for rogue regimes to acquire advanced weapons-making technology." The Commerce Department also announced yesterday that it was further relaxing restrictions on the sale abroad of powerful computers, making high-speed mainframe computers widely available for export to all but a few "outlaw" countries. (Related stories: NYT-A1; WP-B1)

Addicts on Disability Go Unchecked. The BG (S. Murphy, C. Sennott) reports the Federal government makes monthly disability payments to 1,870 drug abusers and alcoholics in Massachusetts on condition they enroll in drug treatment centers, but Federal officials acknowledged yesterday no one checks to see if they indeed are receiving help. The Social Security Administration has, in effect, lost track of those receiving the \$480-a-month allotment for addicts. Massachusetts is one of 17 states with no way to ensure they get treatment. Susan Harding, a field officer for the Social Security Administration's office in Boston, said the administration will award a contract next month to a private agency to begin finding treatment programs for addicts and alcoholics who get the SSI benefits based on their addictions. (BG-A1)

Personnel: The WP (A. Kamen) reports Clifton Gaus, a member of Hillary Rodham Clinton's health care reform task force, will be taking over the Agency for Health Care Policy and Research at the Health and Human Services Department. Jarret Clinton will be departing the position to head the PHS's southeast regional office in Atlanta. President Clinton yesterday said he would nominate Nelba Chavez, director of San Francisco's juvenile probation services, to be Administrator of the Substance Abuse and Mental Health Services Administration. Ryan Crocker, a career foreign service officer, is to be Ambassador to Kuwait, and career officer Edward Walker Jr., deputy to UN Ambassador to Madeleine Albright, is headed for Egypt. Linda Rosenstock, a professor at the University of Washington, has been named director of the National Institute for Occupational Safety and Health, part of the Centers for Disease Control and Prevention. (WP-A19)

HEADLINES OF NOTE

A Summit On Homeless Veterans (USA-A3)
 White House Volunteering Few Answers In Travelgate; GAO Investigators Told To Put Questions In Writing (WT-A3)
 Lebanon Pledges Stronger Security; US Pressure Prompts Beirut And Syria To Seek To Halt Attacks In South (NYT-A6)
 Visa Rule [Barring HIV-Infected Aftens] To Be Waived For Gay Games (NYT-B4)
 USDA To Seek Ruling Approving Irradiation To Kill Meat Bacteria (WP-A3)

Judge Approves A Class-Action Suit By Blacks At the Immigration Service (NYT-A12)
 Durable Orders Increased Again In January; Big-Ticket Goods Jumped 3.7% From Prior Month For Sixth Straight Gain (WSJ-A2)
 G-7 Gathering To Put Russia In The Spotlight (WSJ-A2)
 Farrakhan Response To House: Allow Me To Come And Testify (WT-A4)
 Immigrants: Middleman Rob US Of Millions In Welfare Funds (WT-A7/APJ)
 Buying Reform Targets Pentagon (WT-A8)
 American Schools Becoming Resegregated (WT-A9)
 Vietnam Wants US To Talk, Not Lecture (WT-A16)
 Stocks Fall On Fears of Rate Rise: Global Markets Slip: Dow Off 51.78 Points (NYT-D1)
 Dermanjuk Case Appeal By US Is Turned Down (WP-A18)
 Clinton Administration Backs Bill To Overhaul Procurement System (WP-A19)
 225 In House Sign Pledge Against Bias in Hiring: Gay Groups' Poll Says (WP-A19)
 10,000 Filipinos Win \$1.2 Billion From Marcos (WP-A18)
 Durable Orders Increased Again During January: Big-Ticket Goods Jumped 3.7 Percent From Prior Month For Sixth Straight Gain (WSJ-A2)
 G7 Gathering To Put Russia In The Spotlight: Despite Internal Frictions, Industrial Nations' Club To Focus on Outsider (WSJ-A2)
 Nationwide-Bank Bill Picks Up Steam As Even Opponents See Measure Passing (WS-A3)

LAST NIGHT'S NETWORK NEWS

To purchase a story summary from US Newswire, call 202-347-2770

ABC World News Tonight

- 1 Earlier Deflection Slowed Down Detection of CIA Double Agent
 -Bob Zellnick - Washington - 2:35
- 2 Yeltsin Speaks in Parliament: Russians Say Spying Done by All
 -David Enzor - Moscow - 1:30
- 3 Secy Christopher Rejects Congressional Calls to End Russian Aid
 -Peter Jennings - New York - 0:15
- 6 President Clinton Takes Health Care Campaign to Connecticut
 -Peter Jennings - New York - 0:20
- 7 Annual Surgeon General Report Released, Slams Tobacco Companies
 -George Strait - Washington - 1:55
- 8 Homeless Veterans March on VA Building in Benefits Protest
 -Jackie Judd - Washington - 2:00
- 10 Japanese Island of Okinawa Wants Removal of US Military Base
 -Mark Lika - Okinawa, Japan - 2:10
- 11 Bosnian Negotiations to Be Moved to Washington
 -Peter Jennings - New York - 0:10
- 12 Shell Kills Ten at Bosnian Muslim Village Medical Clinic
 -Peter Jennings - New York - 0:10

CBS Evening News

- 1 Probe of CIA Examining Possibility of Other Double Agents
 -David Martin - Washington - 2:20
- 2 Yeltsin Aides Warn Against "Overdramatizing" Spy Case
 -Dan Rather - New York - 0:25
- 3 Muslim, Croat Leaders From Bosnia Agree to Meet in US
 -Dan Rather - New York - 0:25
- 6 Clinton Campaigns For Health Plan; AARP Holds Back Endorsement
 -Dan Rather - New York - 0:25
- 10 TCI, Bell Atlantic Pulling Plug on Merger
 -Dan Rather - New York - 0:20
- 11 Surgeon General Aims Anti-Smoking Warning at Teens, Slams Ads
 -Bob Amet - New York - 3:05

NBC Nightly News

- 1 Kerrigan, in First Place, Practices: Rivals Collide on Ice
 -Roger O'Neil - Lillehammer, Norway - 2:10

X000395

- 2 Joycelyn Elders Launches Assault on Adolescent Smoking
-Robert Hager - Washington - 1:55
- 7 The Real Battle Over Health Care is Behind the Scenes
-Andrea Mitchell - Washington - 3:40
- 8 Study Says Many Elderly Favor "Do Not Resuscitate" Order
-Tom Brokaw - New York - 0:25
- 9 FDA Announces Closing of Three Siemens Pharmaceutical Plants
-Tom Brokaw - New York - 0:30
- 10 Planned TCI-Bell Atlantic Merger is Off
-Tom Brokaw - New York - 0:15
- 11 CIA Director Defends Agency on Capitol Hill
-Pete Williams - Washington - 2:05
- 12 Yeltsin Addresses New Parliament: Speech Notable for Candor
-Bob Abernathy - Moscow - 1:50
- 13 Bosnian Peace Talks to Move to Washington This Weekend
-Tom Brokaw - New York - 0:15

WASHINGTON'S SCHEDULE

WHITE HOUSE:

PRESIDENT CLINTON - Meets with senior U.S. regional military commanders for periodic review; meets with Bosnian Prime Minister Sijadzo; meets with NCAA soccer champions, the University of Virginia.

US SENATE:

BANKING, HOUSING AND URBAN AFFAIRS - 10 a.m. Hearing on mutual to stock conversions. Jonathan Fiechter, Director, Office of Thrift Supervision;

Derrick Cephas, Superintendent of Banks, State of New York; and others. 538. Dirksen.

ENVIRONMENT AND PUBLIC WORKS - 9 a.m. Business meeting on the Graham substitute to S.1114 the Water Pollution Prevention and Control Act of 1994. 406. Dirksen.

FINANCE - 9:30 a.m. Social Security and Family Policy Subcommittee. Hearing on welfare reform. Witnesses to be announced. 215. Dirksen.

FOREIGN RELATIONS - 10 a.m. Hearing on the confirmation of Thomas Baldini to be U.S. Commissioner on the International Joint Commission for U.S. and Canada. Charles Baquet to be Deputy Director for the Peace Corps; and others. 419. Dirksen.

US HOUSE: Meets at 11 a.m.

BUDGET - 9:30 a.m. Continued hearing on FY95 budget. Members of Congress and public witnesses 210. Cannon.

NATURAL RESOURCES - 10 a.m. Native American Affairs Subcommittee. Hearing to discuss tribal self-governance. Interior Assistant Secretary Deer, Department, and public witnesses 1324. Longworth.

OTHER:

CANADIAN MINISTER OF FOREIGN AFFAIRS - Canada's Foreign Affairs Minister, Andre Ouellet, is in Washington to meet with Secretary of State Christopher. Ouellet holds a news conference at 3:30 p.m. at the Canadian Embassy.

HIGH TECH - 11:00 a.m. American Electronics Association (AEA) will hold a press conference/lunch to release the high tech industry's first-ever workforce skill standards. Secretary Robert Reich of the Department of Labor, frontline worker James Callan and Jim Burge, Vice President of Motorola, Inc. will answer questions.

Copyright © 1994 by the Bulletin Broadcasting Network. Reproduction without permission prohibited.
The Morning Digest is published business days by the Bulletin Broadcasting Network, Alexandria, Virginia.

X000396

DRAFT

March 5, 1994

DRAFT

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department and with regard to Congressman Leach's inquiry. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based solely upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact was brief.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of

XJ 0397

the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting was relatively short.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (*i.e.*, the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also was relatively short.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. Cf. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the

X000398

White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is

X000399

affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000400

benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official

X000401

purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney,

X000402

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

The matter does not involve parties, or representatives of parties, with which any of the White House officials have a "covered relationship." See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000403

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

The circumstances of the contacts do not suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b) (3).

Because the contacts were made to enable White House and Treasury officials to respond to press inquiries, there appears to have been no reason to believe that the information was nonpublic and was not to be disclosed. In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed; additionally, White House officials would not have a basis for thinking that the information provided by Treasury officials was nonpublic information. White House officials would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁴

⁴ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public." 5 C.F.R. § 2635.703(b).

X000404

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in nonofficial activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties -- discussing the official response of the White House to inquiries arising as a result of actions taken by the RTC -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest, other than in the proper discharge of his official duties. 18 U.S.C. § 205(a).

X000405

This statute prohibits representational actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances in their official capacities on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were made in the course of exercising their official duties on behalf of the White House and were not made as representations of anyone other than the White House.

IV. Conclusion

This memorandum is based solely on the facts that are stated herein and does not analyze the propriety of actions undertaken by either Treasury Department or RTC officials, who may be subject to additional statutes, regulations, or guidance regarding their conduct. With that in mind, it is our conclusion that White House officials who participated in the meetings on September 29, October 14, and February 2 did not violate the criminal conflict of interest statutes or the government-wide standards of conduct regulations.

X000406

Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship¹ is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee² may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

¹ An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

² For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000407

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons. Additionally, because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from the Office of Government Ethics on the more general standard matter.

If they should have sought authorization, and we are not arguing this point, we are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?].

Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or

X000408

attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

insert into: Non preferential treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain entities access to White House tours (e.g., to be auctioned at fundraisers), which are prohibited other than official tours through the Visitors' office, is treating that organization preferentially. By meeting with the Treasury officials, the White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a). There is no evidence that suggests that the White House officials disclosed any information. Rather, the White House officials were the recipients of information provided by the Treasury officials.

Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters. As discussed previously, we are of the opinion that the White House officials were acting in their official capacity and not in pursuit of private interests when meeting

X000409

with the Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

517

X000410

REDACTED

(draft 1/8 1:00 p.m. (wne))

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

X000411

REDACTED

REDACTED

X000412

IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS

Mr. Foster committed suicide in July 1993. No files were removed from his office prior to an examination of those files by White House Counsel Bernard Nussbaum in the presence of law enforcement officers. In the presence of those officials, Mr. Nussbaum reviewed and noted the files in Mr. Foster's office, including a file related to Whitewater. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including Whitewater, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family. The few Whitewater files that were in Mr. Foster's office at the time of his death were sent to the Clintons' personal law firm for safekeeping and storage.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records to the Department. As would be entirely routine and to protect the integrity of the investigation, the President's lawyer requested a subpoena to cover the documents. Delivery of the documents to the Department began on January 6. Those documents will be reviewed by the grand jury investigating Madison in Little Rock.

X000413



The Coalition for a Congressional Impeachment Inquiry

A Project of The Conservative Caucus • 480 Maple Avenue East • Vienna, Virginia 22180

FOR RELEASE 2:00 PM
FEBRUARY 8, 1994

FOR MORE INFORMATION CONTACT:
CHARLES ORNDORFF (703) 938-9626
KEITH APPELLE (703) 683-5004

Impeachment Inquiry Requested:

CONSERVATIVES LAUNCH CAMPAIGN FOR CONGRESSIONAL INQUEST

PHILLIPS: PROBE NEEDED TO DETERMINE IF IMPEACHABLE OFFENSES WERE COMMITTED

WASHINGTON, D.C.—Conservatives launched a campaign today seeking an official inquiry into charges of cover-up and obstruction of justice which might result in the need to direct impeachment charges against President Clinton. Howard Phillips, Chairman of The Conservative Caucus, released a list of 20 questions he said American taxpayers deserve answers to, along with radio ads urging congressional action. Phillips called on House Judiciary Committee Chairman Jack Brooks (D-Tex.) to open the impeachment inquiry.

"Only in the context of a congressional inquiry can we find out whether the impeachment of Bill Clinton and criminal prosecution of Hillary Rodham Clinton are legally warranted. Mounting evidence compels Congress to open an inquiry to find out if, indeed, such proceedings should go forward," said Phillips.

Phillips announced the formation of the *Coalition for a Congressional Impeachment Inquiry*. He emphasized The Conservative Caucus will make a major effort to force hearings by mobilizing public opinion through radio, television and newspaper ads, direct mail and phone banks, and he echoed the parallel many have drawn between Whitewater and Waurgan.

"In 1974 it was the House Judiciary Committee — on whose staff both Hillary Rodham and current White House Counsel Bernard Numbaum served — which was called upon to investigate the comparatively minor issues incident to the cover-up of a botched burglary at the Watergate Hotel. Hillary Rodham had no objections at that time to full public disclosure. You can be sure that if Ronald Reagan, George Bush or Dan Quayle were involved in matters so questionable as those in which the Clintons are involved, there would not even be a debate over whether a congressional inquiry should go forward. The Judiciary Committee would already be holding hearings," Phillips said.

The Conservative Caucus (TCC) is a non-profit, non-partisan public policy action group founded in 1974.



X000414

The Coalition for a Congressional Impeachment Inquiry

A Project of The Conservative Caucus • 450 Maple Avenue East • Vienna, Virginia 22180

The Board of The Conservative Caucus, which includes attorneys, former government officials, and recognized scholars, has concluded that - on the basis of facts which have already been made available - it is time for Americans who love their country to initiate impeachment proceedings in the U.S. House of Representatives to investigate the conduct of President William J. Clinton with respect to the financial scandal which has come to be known as "WhiteWatergate."

We believe that the only way to get a full and fair investigation of astoundingly criminal conduct by President and Mrs. Clinton is by launching a Congressional inquiry to determine whether the Constitutional standards for impeachment have been met.

Mounting evidence suggests that a massive cover-up has been initiated, and that it may have been masterminded by the Clintons themselves to conceal conduct which is widely perceived to have been at least unethical, and probably criminal.

There are important questions for which each of us - as voters and taxpayers - deserve answers - answers we will probably be denied unless there is a full-fledged Congressional investigation - with all relevant facts available to the public.

Only in the context of a Congressional inquiry can we find out whether impeachment of Bill Clinton and criminal prosecution of Hillary Rodham Clinton is legally warranted.

Those of us who seek a full and fair investigation of the very serious issues involved in the WhiteWatergate/Madison Guaranty scandal, including apparent destruction of documents and obstruction of justice, cannot rely on Lawrence Walsh's former law partner, Robert Fiske, appointed by Janet Reno to be Special Counsel, to give us the answers.

In 1974, it was the House Judiciary Committee (on whose staff served Hillary Rodham and Bill Clinton's White House counsel Bernard Nussbaum) which was called upon to investigate the comparatively minor issues incident to the cover-up of a botched burglary at the Watergate Hotel.

Hillary Rodham had no objections at that time to full public disclosure.

You can be sure that if Ronald Reagan or Dan Quayle, or even George Bush, were involved in matters so questionable as those in which the Clintons have been involved, there would not even be a debate about whether a Congressional investigation should proceed. You could bet your life that the Judiciary Committee would already be holding hearings.

X000415

But, with liberal Democrats in complete control of both the House and Senate, it will take a full scale grass-roots prairie fire of concern to force the initiation of a bipartisan impeachment inquiry by the Judiciary Committee.

Substantial evidence exists suggesting that President Clinton and Hillary Rodham Clinton have been involved in the cover-up and destruction of evidence relating to activities which, in many respects, seem to have been of a seriously criminal character.

This is a matter for investigation and disclosure by the Congress of the United States pursuant to the investigative authority which the Constitution assigns to the U.S. House of Representatives.

Members of Congress, elected by and accountable to the people, need to be in a position to ask the questions and get the facts. This can only be done -- fairly and comprehensively -- in the context of impeachment proceedings under the auspices of the House Judiciary Committee.

- ☐ YES, sign me up as an endorser of
The Coalition for a Congressional Impeachment Inquiry

My name is: _____

Title and name of organization: _____
(for identification only)

Address: _____

City/State/Zip: _____

Phone: _____

Signature: _____

For further information, please contact
Charles Omdorf
703-932-9626



X000416

The Coalition for a Congressional Impeachment Inquiry

A Project of The Conservative Caucus • 650 Maple Avenue East • Vienna, Virginia 22180

RADIO AD TO BE BROADCAST ON WMAL-AM (630) DURING THE Rush Limbaugh Show, Wednesday through Friday (February 9-11, 1994)

"What do you think? Is it time to demand that Congress begin an official public inquiry concerning the involvement of Bill and Hillary Rodham Clinton in the Madison Savings and Loan Whitewater scandal?"

"Have the Clintons orchestrated a cover-up which, in legal terms, amounts to obstruction of justice?"

"The Conservative Caucus has launched a national Coalition for a Congressional Impeachment Inquiry and we want you to be part of it."

"I'm Howard Phillips, and I'd like to send you a Clinton Impeachment Kit with 20 questions to which American taxpayers deserve answers, as well as a Clinton Impeachment Petition, and an action list with key phone numbers and addresses of people to contact, plus published facts about the death of Vince Foster, and the use of Federal funds to benefit Bill and Hillary's political cronies."

"Write this number down, and call today: 1-800-980-9900 (cost: \$1.80/minute). Leave your name and address so we can rush you your own Clinton Impeachment Kit. Whether or not you contact us, please contact your own Congressman and urge him to support an official impeachment inquiry."

X000417



The Coalition for a Congressional Impeachment Inquiry

A Project of The Conservative Caucus • 250 East Avenue East • Vienna, Virginia 22180

QUESTIONS TO WHICH AMERICAN VOTERS AND TAXPAYERS DESERVE ANSWERS

- 1) Were funds stolen with Bill Clinton's knowledge and/or complicity from a U.S. taxpayer-subsidized institution and loan (Madison Guaranty) to repay a canceled loan (from another bank) made personally to Bill Clinton to help fund one of Clinton's political campaigns?

Debit slips to Clinton from the S&L were in the form of Madison cashiers checks, usually written in the name of an individual on his account. At least one of those individuals has told Federal investigators he never wrote such a check. If the bank gave money in the name of a depositor without that person's knowledge, it would constitute an improper diversion of depositor funds - a felony. Did this occur? Was this done at Bill Clinton's direction or with his knowledge?

- 2) Federal banking examiners found Madison Guaranty, prior to insolvency, to have diverted millions of dollars to the family and friends of James McDougal, who controlled the bank. The Resolution Trust Company (RTC) has sent to the U.S. Department of Justice a criminal referral indicating that the RTC staff believed crimes to have been committed. USA Today reports that the Clintons were among those listed as possible beneficiaries of McDougal's largesse. Did Bill or Hillary Rodham Clinton knowingly accept funds thus obtained?

- 3) Are Bill and/or Hillary Rodham Clinton legally responsible for any portion of the more than \$47 million which U.S. taxpayers were required to pay to cover losses incurred by Madison Guaranty?

- 4) Did President and/or Mrs. Clinton order the removal and/or destruction of personally incriminating documents from the office of Deputy White House counsel Vince Foster in the hours following his death?

- 5) Did President Clinton act dishonestly in turning over the investigation of Vince Foster's death, and of the missing papers in his office, to the unqualified U.S. Park police? Was this an attempt to obstruct a timely, comprehensive investigation by the FBI?

- 6) Did the Clintons mislead Federal investigators in asserting that they had lost some \$18,000 in WhiteWater, and in alleging that they were only passive investors, making no decisions in the venture?

- 7) Was Hillary Rodham Clinton part of a criminal conspiracy when she asked James McDougal of WhiteWater and Madison Guaranty for full power of attorney over WhiteWater, so as to enable her to run the partnership with her signature?

- 8) Were Bill and/or Hillary Rodham Clinton guilty of misfeasance, malfeasance, or nonfeasance in the destruction or loss of WhiteWater records? According to James McDougal, Mrs. Clinton had insisted that the records be sent for safekeeping to the Clinton's personal residence at the Governor's Mansion in Little Rock, Arkansas. The Clintons now say these records are nowhere to be found.

- 9) Were the Clintons guilty of tax fraud for claiming more than \$8,000 as a deduction on their income taxes for interest paid on a loan even though no such interest had been paid?

- 10) Did Clinton appoint Wade Hubbell to be Associate Attorney General of the United States while knowing that Hubbell acted in behalf of the Federal government, participated in the negotiation of an arrangement whereby Hubbell's father-in-law, Bob Ward, was permitted to default on \$547,751 of a \$600,000 loan from Madison Guaranty S&L?

X000418

- 11) Did Madison Guaranty S&L hire Hilary Rodham Clinton to be its attorney at \$2,000 per month because of money pressures brought to bear by Bill Clinton?
- 12) Did Mrs. Clinton violate conflict of interest laws by accepting \$2,000 per month in legal fees to represent Madison before state banking regulators who had been accepted by her husband, Bill?
- 13) Did Clinton try to sabotage a Federal investigation of Madison Guaranty S&L by calling Mrs. Clinton's friend Beverly Rogers (Schaller) to be state securities regulator despite her having represented Madison Guaranty as a private attorney?
- 14) Were the Clintons legally liable for late and/or improper tax forms filed in behalf of the WhiteWater development?
- 15) Vince Foster refilled tax forms after it was shown that the WhiteWater partnership failed to file corporate returns for three years when the Clintons were half-owners. Were the Clintons responsible for late or incomplete records? Was there tax fraud?
- 16) Did Bill Clinton, as governor, use undue influence on David Hale to arrange an \$300,000 loan? Hale, a prominent Arkansas Democrat and Clinton supporter, was appointed by Clinton to be the first judge of Arkansas's Municipal Claims Court, established by Clinton.

Hale also functioned as head of the Capital Management Services Inc. (CMS), an investment company chartered by the Small Business Administration. In September 1993 a Federal grand jury indicted Hale on charges of defrauding the SBA. CMS was legally permitted to make SBA loans only to "socially or economically disadvantaged" proprietors. Prior to his indictment, Hale made offers to implicate Governor Clinton in connection with the \$300,000 loan from Capital Management to a real estate firm owned by Mrs. James McDougal. Investigators are now seeking to determine whether any of these funds were used to aid the WhiteWater development. Mr. Hale said Mr. McDougal (of WhiteWater and Madison) urged the loan to help "clean up" problems involving "the political family." When Governor Clinton personally read the loan, Hale said, "I knew I had to help. There never was any question."
- 17) Was Hilary Rodham Clinton critically implicated when her father, Vince Foster, secured an agreement with the Federal Deposit Insurance Corporation for the benefit of Hilary Clinton's law firm so that the firm could sue Madison Guaranty's attorneys in behalf of borrowers? The Rose Law Firm received \$400,000 in fees. Was the FDIC misled with respect to the firm's prior representation of Madison Guaranty?
- 18) Did intervention before Clinton-appointed state banking regulators on the part of Mrs. Clinton and the Rose Law Firm (where she was a senior partner) keep Madison in operation long after it became insolvent?
- 19) Did the Rose firm, including Hilary Rodham Clinton, Vince Foster, and Webb Hubbell, violate conflict of interest laws by suing Madison on behalf of the Federal Government in 1988, four years after they had represented the S&L before state regulators?
- 20) In one of her first acts as Attorney General, Janet Reno dismissed all U.S. Attorneys so that they could be replaced by Clinton political appointees. In this context, Paula Casey, a former associate of both Bill and Hilary Clinton, was appointed to the Little Rock vacancy. Although she recused herself from the WhiteWater case in early November of 1993, she also concurred in a decision not to pursue an investigation of potential criminality by the Clintons. Was the unprecedented dismissal of all U.S. Attorneys part of a criminal cover-up in which Bill Clinton, Hilary Rodham Clinton, Vince Foster, and Webb Hubbell participated?

For further information, please contact
Charles Omdorf
703-636-1636

X000419

Howard Phillips

Married with six children, Howard Phillips has been chairman of The Conservative Caucus (TCC) since 1974.

Previously, during the Nixon Administration, he headed two Federal agencies, the President's Council on Youth Opportunity and the U.S. Office of Economic Opportunity.

During his service in the Executive office of the President, Phillips earned national recognition for his efforts to terminate Federal programs which furnished ideological patronage for the radical left by promoting abortion, homosexuality, "welfare rights," and the destruction of America's constitutional heritage.

A 1962 graduate of Harvard College, where he was twice elected president of the Harvard Student Council, Phillips is a former chairman of the Republican Party of Boston. A successful campaign manager and policy strategist, Phillips has directed national campaigns promoting SDI, tax cuts, and "defunding the Left."

Under his leadership, TCC led 50-state grass-roots efforts to defeat the Carter/Torrijos Panama Canal treaties, block ratification of the Carter/Brezhnev SALT II treaty, and oppose ratification of the Reagan/Gorbachev INF pact.

Founder of the U.S. Taxpayers Alliance and president of The Conservative Caucus Research, Analysis & Education Foundation, Phillips is also editor of the weekly *Issues and Strategy Bulletin* published by his consulting firm, Policy Analysis, Inc.

His book, *The Next Four Years: A Vision of Victory*, helps chart a course for returning America to its Biblical and Constitutional foundations.

X000420

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS
WASHINGTON, DC 20510-8078

January 25, 1994

Mr. Roger Altman
President Interim and
Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes limitations.

I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

X000422

2

The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,



Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn

DONALD W. ROSS, JR., MEMPHIS, TENNESSEE

PAUL A. CARLSON, HARTFORD
CHRISTOPHER J. DODD, CONNORVILLE
JIM BASSON, TOMBIGHEON
ROBERT E. DUBOIS, ALABAMA
JOHN A. ELLIS, MASSACHUSETTS
EDWARD H. DEVER, DEVER
BARBARA ELLIS, CALIFORNIA
JOHN BENTON CAMPBELL, COLORADO
CARL HOFFMAN, OHIO, ELIZABETH
PATRY HOFFMAN, WASHINGTON

ALANORE B. DUNN, NEW YORK
PAT. DUNN, FLORIDA
CHRISTOPHER S. DUNN, WISCONSIN
CAROL JACOB, ALABAMA
LAUREN FANGLUET, SOUTH CAROLINA
ROBERT A. DUNN, UTAH
WILLIAM V. DUNN, JR., DELAWARE
PATRICK V. DUNN, NEW HAMPSHIRE

STEVEN R. HARRIS, STAFF DIRECTOR AND CHIEF CLERK
WILLIAM A. HARRIS, DEPUTY CHIEF CLERK

United States Senate

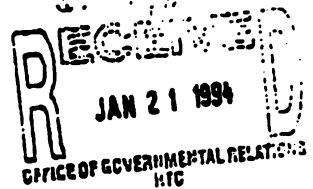
COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-8075

X000423

January 10, 1994

Mr. Roger Altman
Acting Chief Executive Officer
Resolution Trust Corporation
801 17th Street N.W.
Washington, D.C. 20434



Dear Mr. Altman:

Enclosed please find a copy of a letter we sent today to Attorney General Reno. We would appreciate it if you would consider the request we made therein with respect to our concern that the running of the statute of limitations may prevent the final resolution of all allegations relating to Madison Guaranty Savings and Loan.

Thank you.

Sincerely,

Bob DaleAlfred O'LearyJan MeyersJames R. BushBill ClavinWilliam F. FildesLarry PenderBob Michel

UNITED STATES SENATE
 COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS
 WASHINGTON, DC 20510-6075

United States Senate

X000424

COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS
 WASHINGTON, DC 20510-6075

January 11, 1994

Honorable Janet Reno
 Attorney General
 U.S. Department of Justice
 Washington, D.C. 20530

Dear Attorney General Reno:

We regret that you have rejected Congressional requests to appoint a special counsel to examine the allegations of potential misconduct that have recently surfaced concerning Madison Guaranty Savings and Loan ("Madison") and the Whitewater Development Corporation ("Whitewater").

Of course, we express no opinion as to whether any of the allegations are, in fact, true. Nor do we express any view as to who may, or may not, be involved in any misconduct. Nevertheless, we are writing to urge you to act immediately to seek agreements to toll the relevant civil and criminal statutes of limitations, which are now expiring.

While we have our differences with you over whether to appoint a special counsel under your authority, or an independent counsel following reauthorization of the Independent Counsel Act, we trust that we are pursuing a common objective: a fair investigation conducted in an objective, impartial and independent fashion. The American people, the President, and Mrs. Clinton deserve nothing less.

We are concerned, however, that the goal of fairness and the opportunity for the President and Mrs. Clinton to dispel any doubts about their lack of personal involvement in any of the alleged misconduct may be hampered by the frequent and unfortunate delays in this case. As you are aware, Madison failed and was taken over by the Resolution Trust Corporation in 1989; many of the allegations concerning Whitewater stem from the mid-1980s. However, due to various factors, including the delayed removal of key officials in your Department and the U.S. Attorney in Little Rock, these allegations have not been pursued in an expeditious manner. As a result, immediate action is now critical.

Under the Federal Deposit Insurance Act, the RTC has only a five year period in which to bring a civil suit for fraud, starting from the date it became the

X000425

2

successor or receiver of a failed institution. Thus, the ability of the RTC to take civil action may expire as early as March, 1994. The statute of limitations for criminal actions involving bank fraud is 10 years from the date of the occurrence of the criminal activity.

In order to resolve any and all questions regarding Madison and Whitewater, we urge you and the RTC to seek voluntary agreements with all relevant parties, including the President and Mrs. Clinton, the McDougals, David Hale, Jim Guy Tucker, Seth Ward, and the Rasmussen Law Firm, to toll the running of the statutes of limitations -- in other words, to seek their agreement to voluntarily waive these defenses. These agreements will allow time for a complete and independent investigation and permit the orderly operation of the legal and judicial processes. It will also remove any doubt that the above named parties may seek to use the statute of limitations as a procedural defense. Furthermore, it will reassure the American public that anyone implicated in any wrongdoing will answer these allegations on their merits.

Attorney General Reno, thank you for your consideration of this request.

Sincerely,

<u>Bob Dole</u>	<u>Alfonse O'Neal</u>
<u>Jan Meyers</u>	<u>James Smith</u>
<u>Bill Clinton</u>	<u>Harold Fink</u>
<u>Larry Pressler</u>	<u>Bob Mitchell</u>

cc: Roger Allman
Resolution Trust Corporation



FLOOR STATEMENT
SENATOR CHRISTOPHER S. BOND
MARCH 13, 1994

Mr. President, I want to take a few minutes of the Senate's time to outline where we are in terms of the on-going disclosures of the White House and the Resolution Trust Corporation regarding Madison Guaranty.

As my colleagues know, Madison Guaranty was a Little Rock savings and loan which was owned by James McDougal -- the business partner of the Clintons in the Whitewater real estate deal.

Madison Guaranty was a classic S&L story of insider dealing, reckless loan policies and ultimate failure with the U.S. taxpayers picking up the tab. But in this case there was a small twist -- many of its benefactors were in politics and Government.

The tangled web of Madison and Jim McDougal has led to two criminal referrals by the RTC, an on-going civil action investigation by the RTC, a conflict of interest case for the Rose Law Firm, and a trial which is about to start concerning David Hale.

It has also led to the appointment by the Attorney General of Special Prosecutor Robert Fiske who is looking at all these issues to see what happened, who was involved, who benefitted, and was there a cover up.

In the middle of all this action, Republicans in the House and Senate have been attempting to get the facts -- not to interfere, impede or delay

X000427

the investigation -- but in order to fulfill our obligation of oversight over those who are now running the Government.

This means asking questions of the RTC, the FDIC, the OCC and others about whether they are receiving outside pressure, is the White House staff attempting to get information that these so-called "independent" agencies would never give to anyone else, is this information being provided? If so, by whom? And to whom?

And as my colleagues know, it was in the course of asking these types of questions -- questions some of my colleagues don't believe should even be asked -- that we first discovered from the acting head of the RTC Roger Altman that he had briefed White House staff on the status of the RTC investigation.

Now for those of you who are saying -- stay out of the way, the Special Counsel is on the case -- perhaps you would be interested to know that this meeting took place 2 weeks after Mr Fiske was named.

Mr President, let me tell the Senate about this episode, which should go a long way toward explaining why the Republicans signed and sent a letter to the Majority Leader stating we want a hearing on this.

When Mr Altman was before the banking Committee on Feb. 24, I asked him a series of questions about how he, and the RTC had been handling the case. Given the sensitivity of the case -- with the President and the First Lady been named in the criminal referral by the RTC regional

X000428

office -- I asked Mr Altman:

"Are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high-profile individual? Someone in government for example?"

He replied:

"The procedures, Senator which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning."

He went on to say:

"When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all the relevant RTC personnel to handle criminal judgements in the same exact fashion that they would handle any other PLS matter with no deviation whatsoever."

Mr President, I should note for the record that Mr Altman answered these questions before he had divulged the meeting at the White House in February. I should also point out that in the course of this discussion with me when he was assuring me and the Senate that the RTC was treating the Madison case in an "identical" manner, and that the staff should treat the criminal referral "in the exact same fashion" with "no deviation whatsoever" -- that Mr. Altman didn't see fit to tell us about how they had not followed the exact same or identical procedures.

But it only gets worse.

X000429

Later in the hearing I asked Mr. Altman:

"When did you become aware of the RTC recommendation that further criminal prosecution be taken against Madison?"

He replied:

"Last fall. I was advised that a question of referral to the Justice Department was under consideration at the RTC. And as other members of the RTC will attest, I said that normal procedures with no deviations whatsoever should be pursued, *including chain of command*, in terms of reaching that conclusion."

I then asked him:

"Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clinton's name should be in the new expanded referral?"

Altman replied:

"No. I was simply informed that this issue was on the table, and my reaction was -- and I only had one conversation about it -- the normal procedure should be followed. That is the way we are going to handle it from beginning to end."

I then asked: "How was the White House notified of the referral?"

Altman replied:

"They were not notified by the RTC, to the best of my knowledge."

X000430

I followed up with:

"Nobody in your agency, to your knowledge advised the White House staff that this was going to be a major -- this could be a major source of concern?"

Altman replied:

"Not to my knowledge".

Now Mr. President, what we have just heard is the repeated assurances that the RTC did nothing different in the Madison case from any other case. That the head of the RTC had instructed his people, from the moment he was aware of Madison's new criminal referral to treat the case no differently than all the others.

But we now know this is simply not true. Not only did the head of the RTC brief the White House staff, and it bears repeating that by briefing Bernie Nussbaum and Maggie Williams, Mr. Altman was briefing the very people who stand accused of taking Whitewater/Madison files out of the late Mr. Foster's office, and then attempting to conceal that they existed -- and that these files are certainly one's that the RTC's own investigators would want to review.

But now we find out that at least two additional meetings were held, both late last year as the RTC was putting together their second criminal referral. According to the Washington Post -- and this was confirmed to me by Mr. Altman in a conversation last evening -- Jean

X000431

Hanson, the General Counsel of the Treasury briefed Bernie Nussbaum in late September, and told him that the Clinton's would be named in the criminal referral.

The second meeting occurred in October, and again included Jean Hanson, plus two other Treasury political appointees, and was held in Nussbaum's office. Also in attendance according to the Post were the White House Communications Director Mark Gearan, and the designated Whitewater spokesman for the White House, Bruce Lindsay.

Before the meeting, Hanson was briefed by RTC senior V.P. Bill Roelle.

Mr President -- something is very wrong.

Either Mr Altman deliberately misled the Committee -- which I don't believe he did -- or the political appointees beneath him deliberately did not brief him, did not correct the record, nor tell the Secretary of Treasury what his General Consul was up to, so he could correct the record when he was before the Senate Banking committee just 4 days later.

Mr. Altman has recused himself -- better late than never. And the President's chief of staff Mack McLarty has now laid down the law -- no more meetings, again better late than never, but this is not something that should have to be explicitly stated.

But has Ms Hanson recused herself?

X000432

After all, she has had three meetings -- and she is the General counsel, the chief lawyer of the Department of Treasury?

Did she suggest to Altman that a February briefing was in order? Did she sent up other meetings that have not yet come to light? Why was she involved in the first place. Is it true she has been acting as the general counsel of the RTC as there is no one currently in that position?

We know have 5 examples of what it takes to get the Administration to see conflicts of interest -- they have to be caught in the act.

Mr President, for those of us in Congress, who work with the Administration on a daily basis -- trust is a very important commodity. Unfortunately, it is easy to lose and hard to regain, and the Administration handling of Whitewater/ Madison has seriously eroded the trust of many of us in this body.

That is why I support the Minority leader's efforts to get to the bottom of all this.

NEWS
FROM:

Bob Dole
U.S. SENATOR FOR KANSAS
SENATE REPUBLICAN LEADER



FOR IMMEDIATE RELEASE
Thursday, March 3, 1994

Contact: Clarkson Hino
(302) 224-5350

WHITEWATER-MADISON UPDATE

Dangerous Pattern Emerging in Administration's Handling of Madison-Whitewater Affair: Don't Mix Politics & Law Enforcement

According to Webster's Dictionary, the word "independent" means, and I quote: "Not subject to control by others...Not looking to others for one's opinions or for guidance in conduct."

I cite this definition because the last time I checked, the resolution Trust Corporation is supposed to be an independent agency...UnderSCORE the word "independent." But, in light of recent press accounts, it appears that I may have to do some more research, or Webster's may have to revise its definition.

Last week, we learned that Roger Altman, the acting C.E.O. of the RTC and the No. 2 political appointee at the Treasury Department, met with White House political officials, allegedly to give them a "head's up" on the RTC's civil investigation into Madison Guaranty. Realizing his blunder, Mr. Altman subsequently--and very belatedly--recused himself from the Madison matter.

More Questionable Meetings

Today, we read that top officials at the Treasury Department, after the supposedly independent RTC asked the Justice Department last year to investigate possible criminal activity involving Madison, met twice with members of the White House Whitewater Brain-Trust--Bernard Matusbaum, Bruce Lindsey, and Mark Gerson. According to news accounts, the Treasury officials gave the White House staffers a report on the "status" of the RTC's investigations and informed them that President and Mrs. Clinton were "named" in the RTC referral, though not accused of any wrongdoing.

Needless to say, the average American citizen who was either named in an RTC criminal referral or the subject of an RTC civil investigation would never have received such high-level cooperation from the very people charged with conducting the investigations.

Dangerous Pattern

A dangerous pattern seems to be emerging.

During last year's Travelgate fiasco, overly-eager White House staffers raised eyebrows by pressuring a top FBI official to attend a White House "political strategy" session, allegedly to coordinate a press response to the burgeoning number of media inquiries. Unfortunately, the supposedly independent FBI went along with this charade, changing an FBI press release to suit White House political needs.

Today, White House staffers are adopting a similar ploy, saying there was nothing wrong with the Treasury-White House meetings: we are told that they were simply sessions to "coordinate responses" to press inquiries about the RTC's investigations into Madison.

Questions of Judgment & Cover-Up

Now, that brings me to another word--"judgment."

In light of the recent news reports, it's becoming increasingly clear that good judgment is in short supply among White House and top Administration officials. No doubt about it, you're asking for big, big trouble, and showing some stunningly bad judgment, when you start mixing politics with law enforcement. It's only fair to excuse a misstep or two--we all make mistakes. But when bad judgment becomes the rule, rather than the exception--and when those involved don't admit their own mistakes--then it may be time for a little White House house-cleaning.

(more)

X000434

And finally, a third word comes to mind--"cover-up." If the White House has nothing to hide about Whitewater, then why all the meetings? Why all the behind-the-scenes machinations? Why "negotiate" a subpoena to shield Whitewater documents from public scrutiny? And why put yourself in the dangerous position of being charged with compromising what are supposed to be "independent" civil and criminal investigations? Cover-up is a tough word, but the consequences of a cover-up can be even tougher.

Congress Has Responsibility - Can't Be Willing Accomplices

I don't know what to make of the recently-disclosed White House-RTC-Treasury shenanigans, but I do know that Congress has an obligation to ensure that supposedly independent law enforcement agencies are just that--independent. For Congress to punt on its oversight responsibilities is a disservice to the American people...and exposes Congress to the charge that we are willing accomplices to whatever Whitewater wrongdoing may have occurred.

FDIC Nomination on Hold Until Thorough Hearing of RTC & Madison

That's why Senator D'Amato, myself, and 41 other Senate Republicans yesterday wrote to the distinguished Majority Leader informing him that we will object to proceeding to the nomination of Ricki Tigert, President Clinton's nominee to chair the supposedly independent FDIC, unless the Senate Banking Committee has an opportunity to thoroughly examine the RTC's handling of its civil investigation into Madison. Today's shocking revelations only serve to underscore the need for such an examination...And, more broadly, for hearings on the entire Madison/Whitewater affair.

Remarks delivered on Senate floor, approximately 12:30 PM ET.

XU00435

DRAFT TRANSCRIPT OF THE PRESIDENT'S Q & A
FOLLOWING REGO EVENT

Thursday, March 3, 1994

Thank you. (Applause.)

THE PRESIDENT: You all relax now, we've got to do a few questions. (Laughter.)

Q Mr. President, are you concerned about the appearance of impropriety of these meetings between Treasury officials and the White House?

THE PRESIDENT: Yes.

Q Have you been able to find out if there have been any other meetings other than the one that was reported? And what will be done about it?

THE PRESIDENT: Well, first of all, the answer is, yes, I'm concerned about that. Nearly as I can determine, no one has actually done anything wrong or attempted to improperly influence any government action. But I think it would be better if the meetings and conversations hadn't occurred.

I think now that there is an actual formal process underway, everyone will be much more sensitive. But I have directed Mack McLarty to prepare a memorandum about how we should handle and respond to any such contacts coming our way in this office so that we will bend over backwards to avoid not only the fact but any appearance of impropriety. It is very, very important to me.

I was a Governor for a long time, and there was never a hint of impropriety or scandal in my administration. And to the best of my knowledge the people who come here to work everyday in this administration, there has been no suggestion of abuse of power or anyone pursuing some personal advantage. And I want the American people to feel that. So I have told Mr. McLarty that we have to --we've already talked to people here in the office to make it clear that they understand that I -- first of all, I feel that this -- all these investigations, they should go forward, unimpeded and as quickly as possible. And I have every confidence in what the facts will reveal. So I think that it's very, very important that while all this is going on that the activity around it should be handled in such a way as to avoid even the appearance of a conflict.

-continued-

X000436

Later today, I think, we will have the memorandum for you, and we'll be glad to answer any questions surrounding that.

Q Well, shouldn't your lawyer be more sensitive to this -

THE PRESIDENT: I think there was a difference -- what we have to do -- let me say, we are also researching exactly what the actual rules are for what kinds of meetings can occur when. And I don't want to get into all the hypotheticals. But, for example, if the press asks questions to one place that are known and another place, the answers might be known in the White House; if someone's asking the agency, can they talk or not, I mean, that was one of the meetings that was discussed in the morning paper.

I want to make exactly -- I want to make it clear that we know what the rules are, but as I said -- and so I can't answer all those questions, in fact, right now. But in addition to what the rules are, what I want the people here to understand is, never mind what the rules are, bend over backwards to avoid the appearance of it. Let's let this thing go forward. There is an investigative process. The records are in hand, as far as I know, for the investigators to do their work. Let it go forward. We don't need to have any implication that we are in any way trying to manage or affect this process. We are not. We must not. And I don't want the American people to give it a second thought.

So the memorandum today should make that clear. And I don't think there will be further problems on this.

Q Mr. President, can you elaborate for us on your conversation with Prime Minister Hosokawa?

THE PRESIDENT: Well, I called him to discuss the -- the trade issue. And the Trade Ambassador will have an announcement on that later today, and then we'll be glad to answer questions about it. But I think I should let him announcement first.

Q -- was it a friendly conversation --

THE PRESIDENT: It was a friendly, a forthright conversation. It's consistent with the tone that we've established in our relationship. But it was one that I had to have today.

Q -- Super 301?

THE PRESIDENT: We'll have an announcement about that later today.

-continued-

X000437

Q Actually, could I just ask on this subject --

Q (Inaudible.) (Laughter.)

THE PRESIDENT: Yes -- (laughter) -- I was beginning to think that we were the only two policy wonks in the world that love -- (laughter). There they go again.

Q When this report was released six months ago, you were predicting, I think it was \$108 billion in savings --

THE VICE PRESIDENT: \$106 billion. (Laughter.) Be careful not to inflate that number. (Laughter.)

Q -- and over five years -- I mean, are you confident that the targets can be met?

THE VICE PRESIDENT: Absolutely. There was a fundamental misunderstanding about the difference between savings and CBO scoring. If you have savings and the caps are not adjusted, then the CBO says that's zero, but the savings are real. And that is the case for every single one of the savings in the report.

I'll give you quick example -- we recommended the closing of a uniformed military medical school. The savings involved each year in closing that are about, what, \$200, \$300 million per year. Under the arcane rules of scoring, that's called zero, because the caps aren't changed. But in the real world where the money is spent, that is a real savings.

And when this all plays out, you'll see that they're real. For example, in the '94 budget year, which was only -- we only caught part of that because we were well into it when the report was released -- but in that part of the '94 budget year and in the '95 budget year, we called in the report for the portion of the \$106 billion in savings reflected there for \$12.6 billion. Out of that amount, \$12.5 billion will be gained. And our -- those savings are in the budget, so -- give us time. We'll demonstrate how and where the savings occur, and they will be real.

THE PRESIDENT: Thank you.

THE VICE PRESIDENT: Thanks very much.

END 11:26 A.M. EST

X000438

ROBERT E. BYRD, WEST VIRGINIA, CHAIRMAN

DANIEL K. ROYCE, HAWAII
 ROBERT F. HOLMES, SOUTH CAROLINA
 A. SPURTT JOHNSON, L.C. J. BANG
 PATRICK J. LEAHY, VERMONT
 JIM GABLER, TENNESSEE
 DENNIS DECONCINI, ARIZONA
 DALE BUMPSTEAD, ARIZONA
 FRANK R. LAUTENBERG, NEW JERSEY
 TOM HARKER, IOWA
 BARBARA A. BOKROS, MARYLAND
 HARRY REID, NEVADA
 J. ROBERT KENNEDY, ALASKA
 MRS. KENNEDY, WISCONSIN
 BETTY NUNEN, WASHINGTON
 DIANNE FEINSTEIN, CALIFORNIA

MARK O. MATTHEWS, OREGON
 TED STEVENS, ALASKA
 THAD COCHRAN, MISSISSIPPI
 ALBERT W. PARSONS, NEW YORK
 ARLEN SPECTER, PENNSYLVANIA
 PETER V. DOMINICK, NEW MEXICO
 DON NICOLLE, OREGON
 PHIL GRAMM, TEXAS
 CHRISTOPHER S. BOND, MICHIGAN
 BLAKE BORTLES, WASHINGTON
 BRYAN BUCHANAN, KENTUCKY
 DENNIS MACK, FLORIDA
 DENNIS BLUM, MONTANA

JAMES H. BINGHAM, STAFF DIRECTOR
 J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
 WASHINGTON, DC 20510-6025

March 3, 1994

The President
 The White House
 Washington, DC 20500

Dear Mr. President:

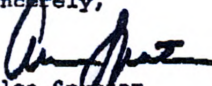
I noted media reports of meetings between Treasury Department and White House personnel concerning the investigation of the Madison Guaranty Savings & Loan.

Given the facts surrounding that investigation, there is a strong inference that those meetings have compromised the investigation and have obstructed the investigation of a financial institution in violation of federal law.

Unless your personal review clears the parties of wrongful conduct, then I call upon you to terminate their employment forthwith without awaiting any criminal investigation by the Special Prosecutor.

If you do not terminate their employment, I ask you to advise me of the specifics of precisely what occurred in all meetings and conversations between the Treasury Department and White House personnel concerning the Madison investigation.

Sincerely,


 Arlen Specter

AS/ml
 BY TELEFAX

file
 RTC

X000439 *KTC*

DEPARTMENT OF THE TREASURY

TREASURY



NEWS

1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

**FOR IMMEDIATE RELEASE
MARCH 3, 1994**STATEMENT OF TREASURY SECRETARY LLOYD BENTSEN

I have confidence in the Treasury officials, but to ensure that all ethical guidelines were followed, I have instructed the matter be referred to the Office of Government Ethics for a thorough review. I did not attend any of these meetings, nor was I informed of any of these meetings.

I have instructed Treasury officials to have no contact with the White House about this case.

###

RTC X000440

U.S. SENATOR

Al D'Amato**News
Release**

NEW YORK

Contacts: Washington • Frank Coleman • 202/224-6498 New York • Zenia Mucha • 212/736-3865

FOR IMMEDIATE RELEASE:
Thursday, March 3, 1994CONTACT: Frank Coleman
(202) 224-6498REPUBLICANS DEMAND HEARING ON SECRET WHITE HOUSE BRIEFING**D'AMATO, DOLE LEAD 43 IN BLOCKING CLINTON 'PAL' FOR FDIC POST**

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) and Minority Leader Robert Dole (R-KS) today announced Republicans are blocking the nomination of Ricki R. Tigert to head the Federal Deposit Insurance Corporation (FDIC) until the Banking Committee holds hearings on the secret Whitewater briefing given by the acting head of the Resolution Trust Corporation (RTC) to top White House staffers.

The GOP position was outlined in a letter to Majority Leader George Mitchell, signed by 43 GOP Senators, citing the "heads up" briefing acting RTC head Roger Altman gave about the agency's supposed independent investigation of Madison/Whitewater to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Jean Hansen.

Calling the meeting "highly improper," the letter said it raised serious questions about the alleged independence of the RTC's investigation and the interference of senior White House political operatives in a regulatory matter.

"The American people deserve to have confidence that the RTC conducts its business in an independent and impartial fashion," the Senators wrote. "A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting."

The disclosure of the secret "heads up"--as Altman called it--about the status of the agency's investigation into the Madison Guaranty collapse came at an RTC oversight hearing last Thursday in the Senate Banking Committee.

Despite all evidence to the contrary, the White House has continued to maintain that the briefing was proper and that the core briefings were provided to Congress and the press.

same briefings were provided to Congress and the press. But the

Forty-one Senators is the number needed to effectively prevent action in the chamber.

A copy of the text of the letter is attached.

X000441

-fc030294-

United States Senate • Washington, D.C. 20510 • (202) 224-6542

Regional Offices: New York (212) 947-7390 / Albany (518) 472-4343 / Syracuse (315) 423-5411 / Rochester (716) 263-5888 / Buffalo (716) 846-4111

X000442

DONALD W. BUECHER JR. MICHIGAN, CHAIRMAN
 PAUL S. KANSANER, MARYLAND
 CHRISTOPHER J. 3000 CONNECTICUT
 JIM BASSER, TENNESSEE
 RICHARD C. SMILEY, ALABAMA
 JOHN S. CLEGG, MASSACHUSETTS
 MICHAEL H. BRYAN, NEVADA
 LARABEA STAIR, CALIFORNIA
 KEN MCINTOSH, CALIFORNIA
 CAROL MOSELEY-BRAUN, ILLINOIS
 PATTY MURRAY, WASHINGTON
 ALFONSO M. BARNATO, NEW YORK
 TIM SHAW, TEXAS
 CHRISTOPHER S. SCHOEN, MISSOURI
 CONNOR MACE, FLORIDA
 ALLEN FARMLEY, NORTH CAROLINA
 ROBERT S. BENNETT, UTAH
 WILLIAM V. BOWEN JR., DELAWARE
 PETER V. DOMENICI, NEW MEXICO

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

STEVEN S. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
 HOWARD A. BOWELL, REPUBLICAN STAFF DIRECTOR

March 2, 1994

The Honorable George J. Mitchell
 United States Senate
 Washington, D.C. 20610

Dear Mr. Leader:

We are writing to inform you that we will object to any agreement seeking consent to proceed to the nomination of Ricki R. Tigert, President Clinton's nominee to chair the Federal Deposit Insurance Corporation, until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and Loan.

As you know, the Acting Chief Executive Officer of the RTC, Roger Altman, recently disclosed that he sought a meeting with White House officials to give them a "heads-up" on the RTC's investigation. Needless to say, such a meeting is highly improper and raises very real questions about Mr. Altman's impartiality and the alleged independence of the investigation. Specifically, why were Harold Ickes and Margaret Williams present, in addition to White House Counsel Bernard Nussbaum? According to the Washington Post, Mr. Ickes the Deputy Chief of Staff, is responsible for Whitewater "damage control". Ms. Williams, Chief of Staff for Mrs. Clinton, had previously participated with Mr. Nussbaum in searching Vincent Foster's office and sending all or some of the materials to David Kendall of Williams and Connolly who is representing the President and Mrs. Clinton.

We believe public hearings are required to explore these and other questions involving the attendance of political operatives at the White House in briefings by the head of a supposedly independent agency on matters that have nothing to do with the Executive Office of the President.

We regret having to delay the Senate's consideration of Ms. Tigert's nomination. Nevertheless, the American people deserve to have confidence that the RTC conducts its important business in an independent and impartial fashion. A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting.

Sincerely,

RTC
Acting

"115"
X000443

U.S. SENATOR

Al D'Amato
NEW YORK

**News
Release**

Contacts: Washington • Frank Coleman • 202/724-6498 New York • Zenia Mucha • 212/738 3865

FOR IMMEDIATE RELEASE:
Tuesday, March 1, 1994

CONTACT: Frank Coleman
(202) 224-6498

D'AMATO BLASTS WHITE HOUSE STATEMENTS ON SECRET RTC BRIEFINGS
"PATTERN OF DECEPTION" CONTINUES IN MADISON/WHITEWATER AFFAIR

WASHINGTON -- U.S. Senator Alfonse D'Amato (R-NY) today called for Senate Banking Committee hearings into secret briefings provided by the head of Resolution Trust Corporation (RTC) for senior White House political staff about the agency's investigation of the Madison/Whitewater affair.

D'Amato also charged that since the disclosure of the secret "heads up" was revealed at last Thursday's Banking Committee hearing, the White House was continuing its pattern of deception by suggesting that the same briefings were provided to Congress and the press.

"The White House has now compounded these shocking revelations by stating falsely that Congress and the media also received these briefings," D'Amato charged. "At the time this secret cabal was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our Committee with any information about its activities on the Madison/Whitewater mess. And I have yet to encounter a reporter covering this story who says he or she was briefed by the RTC, let alone its acting President."

D'Amato, senior Republican on the committee, added that the exposure of the secret briefings at a Banking Committee hearing proved that Democrats needed to end their "footdragging" over whether or not to hold hearings.

"Only through a Congressional hearing did we learn of this very real threat to the integrity of the RTC's investigation," D'Amato pointed out. "We have a responsibility to the American people to fulfil our legitimate oversight function."

"The Democratic members of this committee must understand the threat is not Congressional inquiry, but secret, high level off-the-record 'heads-up' meetings between top Administration officials and White House legal and political experts," the Senator stated. The secret briefing, described as a "heads-up" by acting RTC head Roger Altman was presented to White House Counsel Bernard Nussbaum, Deputy Chief of Staff Harold Ickes, Hillary

03.01.94 10:24

Clinton's Chief of Staff Margaret Williams and Treasury General Counsel Joan Hansen.

4003

Among the questions D'Amato said could be answered by a hearing: Why does White House Counsel Mr. Nussbaum need to be briefed on the RTC's investigation of Madison that does not involve the President in his official capacity? And what about Mr. Ickes and Ms. Williams? Why in the world would these political operatives need to be briefed by a top agency official on an investigation that has nothing to do with the Executive Office of the President? Were any confidential or non confidential RTC or law enforcement documents or other materials used during the briefing?

-fc022894-

United States Senate • Washington, D.C. 20510 • (202) 224-6542

Regional Offices: New York (212) 947-7390 / Albany (516) 472-4343 / Syracuse (315) 423-5471 / Rochester (716) 263-5886 / Buffalo (716) 846-4111

X000445

HON. E. GONZALEZ, TEXAS, CHAIRMAN

STEPHEN L. REAL, NORTH CAROLINA
 JOHN A. LOFAR, NEW YORK
 RICHARD J. WETTS, INDIANAPOLIS
 CHARLES E. SCHLESER, NEW YORK
 SAMUEL FRANK, MASSACHUSETTS
 PAUL E. LAMARCA, PENNSYLVANIA
 JOSEPH P. KENNEDY, MASSACHUSETTS
 FLOYD H. PLATT, NEW YORK
 EDWARD SPURGE, MARYLAND
 MAURICE WEITZ, CALIFORNIA
 LARRY LUDCOCK, OHIO
 BILL ORTON, UTAH
 JOE GRANT, FLORIDA
 HENRY S. SLICK, NEW JERSEY
 PETER W. S. MALONEY, NEW YORK
 PETER BOUTCH, FLORIDA
 LINDA E. BENTLEY, ILLINOIS
 VERNON L. RUMBLE, ILLINOIS
 MICHAEL ROTHMAN, CALIFORNIA
 THOMAS M. BARNETT, UTAH
 ELIZABETH RUSSELL, MINNESOTA
 NYRA M. VELAZQUEZ, NEW YORK
 ALBERT A. WITTE, MARYLAND
 CLAY TOLSON, MISSOURI
 MICHAEL SHUTT, NORTH CAROLINA
 MAURICE WENCH, NEW YORK
 CALVIN M. DOOLEY, CALIFORNIA
 BOB SLICK, PENNSYLVANIA
 DOC FORD, OHIO

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2199 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-0090

March 1, 1994

JAMES A. LEACH, IOWA
 BILL MCCOLLUM, FLORIDA
 MARION BOULDER, NEW JERSEY
 DOUG BUDGETT, MISSISSIPPI
 THOMAS ROSE, PENNSYLVANIA
 TONY ROTH, MICHIGAN
 ALBERT A. WENDELL, CALIFORNIA
 RICHARD W. BAKER, LOUISIANA
 JIM MURPHY, OHIO
 CRAIG THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 DENNIS ROTH, OHIO
 JOHN LINDER, GEORGIA
 JIM THOMAS, INDIANA
 RICK LADD, NEW YORK
 BOB GRANE, MINNESOTA
 SPENCER BUCHANAN, ALABAMA
 MIKE RUMPHREY, CALIFORNIA
 DONALD BATTLE, DELAWARE
 RYAN THOMAS, NEW YORK
 EDWARD SANDERS, VERMONT
 (202) 225-4347

Mr. Bernard Nussbaum
 Counsel to the President
 The White House
 Washington, D.C. 20500

Mr. Stephen Potts
 Director
 Office of Government Ethics
 1201 New York Avenue, N.W.
 Suite 500
 Washington, D.C. 20005-3917

Ms. Jean Hanson
 General Counsel
 Room 3000
 Department of the Treasury
 Washington, D.C. 20220

Mr. Art Kusinski
 Chief Ethics Officer
 Resolution Trust Corporation
 801- 17th Street, N.W.
 Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000446

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels;
or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000447

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000448

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,


James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

X000449

matters. That's one. And secondly, it would seem to me that it might clarify the issue -- certainly I was led to believe, and maybe incorrectly so, that the special counsel was not going to look into civil matters. I think it's important for us to ascertain that. And so I put that to the chairman that possibly we review that matter. I'm not looking for an answer at this time -- SEN. RIEGLE: Well, I'm going to just -- I'm going to take a minute and just read it into the record because I don't want it to be -- SEN. D'AMATO: No -- SEN. RIEGLE: I know, but it's important, and the words are on paper, and this is the official charter. And I'm going to read from page 5221 of the Federal Registry of February the 4th of this year, and I'm going to just read three or four different lines here that appear in different places, and here's the first one: "The attorney general has appointed this independent counsel to investigate whether any individuals or entities have committed a violation of any federal law or civil law." And then it goes on in that vein. And then over on the next page it says again "... have committed a violation of any federal criminal or civil law relating to ..." And then again it says "... any violation of any federal law or civil law." And it says it one more time further on down the line here. So it's clear -- my interpretation of this is that this does not relieve any regulatory body of any proper actionable efforts that it should properly undertake and determine to undertake, but it says that the special counsel clearly has the authority to move down both tracks if in his judgment he should find that that is warranted. And it's a very important fact. SEN. DOMENICI: Mr. Chairman -- SEN. RIEGLE: Senator Domenici, let me just say the time -- we're at the point now where either you or Senator Gramm will get to ask questions, and you -- you're both here, and I don't know if either of you have a -- one will follow the other, but will either of you have a time problem as to who goes first? SEN. DOMENICI: Well, I just wanted to ask you with -- on that question on your charter interpretation there, or reading -- SEN. RIEGLE: It's not an interpretation, it's what -- it's the final rule that was laid down on the -- SEN. DOMENICI: Well, what is -- what is the special prosecutor supposed to do if he finds civil law violations? SEN. RIEGLE: He has the full legal empowerment to take whatever actions he deems necessary -- and all the investigative and prosecutorial authority to do so. I mean, this is an absolute charter. SEN. DOMENICI: We'll -- we'll -- thank you very much for that. SEN. RIEGLE: You can take a look at it. SEN. DOMENICI: Senator Gramm, I have a little bit of time, although I'm late for some events. But if you want to go, I'll let you go and I'll follow. It -- Will there be another one from the other side that has not inquired yet? SEN. RIEGLE: No. You are the last two that have a chance to question, so -- SEN. DOMENICI: Well, go ahead. Could you keep it brief, senator? Short? SEN. RIEGLE: -- and then we'll go back and forth, senator. SEN. : No. SEN. DOMENICI: No? (Laughter.) SEN. RIEGLE: Senator Gramm. SEN. PHIL GRAMM (R-TX): You want to go ahead? SEN. DOMENICI: No, you go. You got the time clock right there. SEN. GRAMM: Let me begin. I've just got a simple question that I want to ask of most of the members of the panel, and let me just read it. Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the president, the first lady, or any of their representatives, including their legal counsel or any member of their White House staff, concerning Whitewater or the Madison Savings and Loan? MR. ALTMAN: I've had one substantive contact with White House staff, and I want to tell you about it. SEN. GRAMM: Okay, let me, if I may, just -- given that "yes" I'd like to know what the

X000450

substance of the communication was, when it occurred, who initiated it, and what you were asked to do. MR. ALTMAN: Right. First of all, I initiated it. About three weeks ago, Jean Hanson, who is Treasury's general counsel, and I requested a meeting with Mr. Nussbaum -- he's the White House counsel. The purpose of that meeting was to describe the procedural reasons for the then impending February 28th deadline as far as the then statute of limitations was concerned. I'm sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims. And we explained the process which the RTC would follow in reaching a decision before that February 8th deadline, that it would be exactly identical to procedures used in any other cases, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim or whether there didn't. And in the event that the basis for a claim existed, then it would pursue either a tolling agreement, which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest, or it would file that claim in court. That was the whole conversation. I was asked one question. That was question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said I assumed so, went back -- (inaudible) -- and checked with the RTC general counsel. The answer was in due course. I said fine. That was it. I have not had any contact with the president of the United States or the first lady on any matter like this. SEN. GRAMM: If I may, let me pose the same question to Mr. Hove. Have you or any member of your staff had any communication -- SEN. RIEGLE: Mr. Hove, let me just -- I don't know if you know. This question's being addressed to you. SEN. GRAMM: Have you or any member of your staff had any communication with the president, with the first lady, with their representatives, including legal counsel, with members of their White House staff concerning Whitewater or Madison Savings and Loan? MR. HOVE: Our director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared The Chicago Tribune regarding the First American issue. They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement. SEN. GRAMM: So they were asking you to respond to the press statement? MR. HOVE: It was Mrs. Clinton's attorney. SEN. GRAMM: Mrs. Clinton's attorney -- MR. HOVE: I'm sorry. It was Mrs. Clinton's attorney --

SEN. GRAMM: -- called you? MR. HOVE: It was Mrs. Clinton's attorney that called the FDIC Office of Communication. SEN. GRAMM: So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press -- MR. HOVE: No, no, that's not what he said. SEN. GRAMM: Well, I'm asking the question. MR. HOVE: Yeah. No, but that -- but -- SEN. GRAMM: I'm not trying to speak for you. What did Mrs. Clinton's attorney ask you to do? MR. HOVE: They asked did we have any statement, and we responded, no, we did not have a statement. SEN. GRAMM: Would it be normal that someone's -- did this attorney work for the federal government? MR. HOVE: No. This was Mrs. Clinton's attorney. SEN. GRAMM: When did this call occur; do you know? MR. HOVE: After the second article appeared in the Chicago Tribune, and I can't tell you the date of that. It's been in the last, what, two weeks or so? I don't know. SEN. GRAMM: And you were asked if you had a response that you were going to put out on it; you said no. MR. HOVE: That's correct. We responded to the first statement, the first article that

X000451

appeared in the Chicago Tribune, pointed out the errors of that article, that it was not an FDIC matter, exactly the same thing that I responded to Senator Faircloth. SEN. GRAMM: And to the best of your knowledge, you've had no other communication, you and your staff have had no other communication with all the people that -- MR. HOVE: That's correct. SEN. GRAMM: Let me pose the same question to Mr. Fiechter and to Ms. Ford. MR. FIECHTER: To the best of my knowledge, I know I have and OTS staff has had no communication whatsoever with anyone from the White House about this or that list that you included in your question. MS. FORD: No, the Oversight Board nor I have had any involvement in this matter. SEN. GRAMM: Let me raise a second question, and it's a thing that I've tried to understand in looking at where we are and what we need to do to get on with finishing this matter. Part of the problem that we have had in the past with regard to congressional hearings and congressional involvement really has involved two things. One has been the granting of immunity by congressional panels for people who would testify. The other is that under the Constitution, the testimony of a member of Congress is a privileged matter that is given special treatment. In this case I'm not aware that anyone in holding a congressional hearing or looking into this matter would be talking about -- I don't know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress. We're not talking about a member of Congress, where there's special constitutional provisions. I'd like to just pose the question: What would be wrong with letting members of this committee that have oversight responsibility look at the records in this case or any other case where we have oversight responsibilities? Mr. Hove, let me pose that to you and Mr. Altman, and then I see my time is up and I'll stop. MR. HOVE: Our position is that we will make access available, and we have, to Congressman Leach, to all information that is, again, non-confidential documents. SEN. GRAMM: How would you define what is confidential? MR. HOVE: Again, those that would -- (pause) -- those that would involve privacy information that would be non-germane to this issue. SEN. GRAMM: And you would make that judgment? MR. HOVE: Yes. SEN. GRAMM: Mr. Altman? MR. ALTMAN: First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred at the very beginning to documents he received last evening, and I would have liked him to receive them earlier, but we only got the request last Friday. But in terms of Congressman Leach, who has also received those documents, he has had them for some time -- if my memory serves, 6,500 pages -- the RTC has been asked not to make information about criminal referrals in the Madison matter public, and it's standard practice not to release information of that kind or any other which might compromise a criminal investigation. And of course, we're cooperating with the independent counsel to try to assure that we don't release any information which would jeopardize his investigation. And as I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should. SEN. GRAMM: Mr. Chairman, if I could have your indulgence, I've got here a text of a newspaper article in Phoenix that contradicts something that Mr. Hove said, and I'm sure he doesn't want to let it stand. I've got a response, apparently after the second article, where the agency -- the FDIC did in fact make a statement. It says the agency said Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing federal regulation of savings and loans. I've got this if you would like to see it. MR. HOVE: Was that after the second -- we made a comment -- we

X000452

made a public comment after the first article appeared -- SEN. GRAMM: This is 2/16/94. MR. HOVE: Okay, and I don't know when those articles appeared. SEN. RIEGLE: Why don't you take a look at it, and let's go to Senator Domenici and then -- SEN. GRAMM: (Aside) -- When did the other one occur, what's the date on the other one? MR. HOVE: Senator, we commented after the first article appeared to correct any inaccuracies that was in the report. The involvement that Mrs. Clinton had in that case was, again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case. That involved two hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint. As far as we can determine from the records we have, that was the involvement that she had had, and that's what we released at the time. SEN. GRAMM: Well, if you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, why they made it, it'd be fine. Thank you, Mr. Chairman. SEN. RIEGLE: Senator Domenici. SEN. PETE V. DOMENICI (R-NM): Mr. Altman, Stanley Tate (sp) was nominated by President Clinton to head the RTC, and while preparing for that confirmation he was at the RTC in a consulting capacity. That's all true, isn't it? MR. ALTMAN: Yes, sir. SEN. DOMENICI: When he withdrew his nomination, he attempted to release to the public materials he had prepared containing the RTC operations. Are you and the board familiar with the document that I refer to? MR. ALTMAN: Generally, sir, yes. SEN. DOMENICI: Why did the oversight board prevent Mr. Tate (sp) from releasing that document? MR. ALTMAN: Well, first of all, it was released. SEN. DOMENICI: Well, you released it -- when he left it was not released and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or my office, but that was December 23rd, 1993. Why was it not released when he wanted to release it? MR. ALTMAN: Well, senator, my recollection is that it was released rather promptly. Maybe not the day after he submitted it, but as a federal employee -- consultant, the materials properly would be -- were reviewed by his superiors before being released. But I think the point is they were released in short order. SEN. DOMENICI: Well, did the RTC or the oversight board alter, edit, or sanitize this document before releasing it? And let me say if not, why did Dietra Ford, oversight board executive director, send a memo -- and I have that -- dated November 30th to you about these materials which included the following sentence: "I'm forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided." Those last -- that last sentence is a quote. What was the disaster that Mrs. Ford was referring to? Was this a reference to Madison? If it wasn't, fine. If it was, I think maybe we ought to know about it. MR. ALTMAN: Senator, you should ask Mrs. Ford that question. SEN. KERRY (?): You may not like the answer, but -- SEN. DOMENICI: Well, I just got this letter, and it deserves an answer. If it's not what I want, that's fine. That's what we're here for. MS. FORD: We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board. The deputy general counsel of the Oversight Board and I advised -- SEN. : Pull the microphone up. MS. FORD: We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO, Mr. Altman, before they are released to the public and that he was a federal -- special federal government employment and, therefore, he was subject to the

X000453

rules that apply in terms of ethics, the Office of Government Ethics, that applied to the release of documents which he obtained during his tenure as a federal government employee. SEN. DOMENICI: Well, what's what your letter says. MS. FORD: That's right. SEN. DOMENICI: But what was the "disaster that we narrowly avoided"? MS. FORD: It was my interpretation that, to release those documents before anyone in the Oversight Board staff, the attorneys involved, or -- who advise us, have a chance to look at them, was inappropriate. And that's my choice of words -- "disaster." I think it's inappropriate to release documents before we know what they contain. SEN. DOMENICI: I thank you. Let me quickly move to a couple of other ones if I might. Mr. Altman, I think you told Senator Bond that you would not make available any documents that, quote, "would have a negative impact on the legislation," closed quote. MR. ALTMAN: No, I don't think so. SEN. DOMENICI: No? MR. ALTMAN: I said -- I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation. SEN. DOMENICI: Well, this committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clarke. This committee explored in detail transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here. Why can't you release all of these documents for this kind of hearing? MR. ALTMAN: Senator, we have had -- or I am advised we have had a couple of conversations with Mr. Fiske, the independent counsel. He has asked us not to release any documents that could jeopardize his investigation. I don't know why you would want us to do that, to jeopardize his investigation. We certainly don't want to.

SEN. DOMENICI: I don't want you to. MR. ALTMAN: And we're respecting his request. SEN. DOMENICI: But if the special prosecutor has no objection to the committee being provided copies of documents, can the committee then count on the RTC's full cooperation in providing them. MR. ALTMAN: You should direct that question to Mr. Fiske. SEN. DOMENICI: No? If he has no objection, then can we count on you to release them? MR. ALTMAN: I think the answer is yes. SEN. DOMENICI: Does the RTC have an inspector general? MR. ALTMAN: Yes, sir. SEN. DOMENICI: Has the inspector general investigated the conflict-of-interest allegations regarding the Rose firm? MR. ALTMAN: I don't know the answer to that. I'm nearly certain it's no because, as you know, it wasn't the RTC that ever had any retainer relationship or other relationship with the Rose firm. SEN. DOMENICI: But you're kind of the natural successor to what went on there, and I believe -- I think when you took over you began some investigation of that. We'll show you that in a minute. But my question is, if the FDIC agreed to have its IG look into Madison, would there be any reason why you wouldn't? MR. ALTMAN: I have no objection to the IG's looking into any matter that he sees fit to look into or that he's requested on an official basis to look into. That's what he's there for. SEN. RIEGLE: Senator Domenici, I don't want to be arbitrary, but I do want to try to stay on the time clock if I can as we go back and forth, and we'll continue until everybody's had a chance to cover everything they want to cover today. SEN. DOMENICI: Thank you very much, Mr. Chairman. SEN. RIEGLE: Chairman Greenspan, I want to come back to the interest rate situation because we had an opportunity to talk the day that the Fed took its first step, after that was taken, and

X000454

I'm concerned about the question of what has happened since and just your own expectations of what might happen, what has happened. You've made further public comments in a hearing recently. I'm just wondering, as you watch market reactions to the tightening move that the Fed made, are you seeing essentially what you expected or have you seen something that -- particularly in terms of the uptick on the long rates -- something that maybe you would not have expected? In other words, where are we now, and how do you read what seems to be taking place as a reaction to the Fed's policy adjustment? MR. GREENSPAN: Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the basis of what has historically tended to be the case, that the type of increase that we've had would initially lead to some small increase in long-term rates followed by some edging off. That's basically been the history, other things equal, and that's essentially what one endeavors to use so far as a forecast is concerned. What occurred in the interim was, as I indicated to the subcommittee of the House the other day, is that there was a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising, and the first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey, which showed a significant increase in prices paid by manufacturers for the month -- I suspect it's early February. The point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4th move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated. And to repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change. As I said then, my impression of how one should interpret that Philadelphia report is more an indication of a pick-up in economic activity because commodity prices tend to be reasonably good proxies for new orders and indeed I think that's what essentially that particular report was showing. It is not a particularly good forecaster of inflation. And as I said at the House committee, we seem to be lacking the financial tinder that usually is associated with inflation accelerating when you get a significant pick-up in economic activity. I'm agnostic at this stage. I think it's too soon to make a judgment, but we will learn a good deal more as the data begin to come forward. SEN. RIEGLE: Well, but as I listened carefully to what you were saying, it seems to me when you say you don't see the inflationary tinder and that you're sort of an agnostic, I mean, I gather you're saying you don't see, yet, a broad evidence of a build-up of inflationary pressure that really worries you. I mean, I -- or is that not a -- I mean, put it in your words, but I'm just -- MR. GREENSPAN: No, that is substantially correct. Look, the reason that we moved on February the 4th, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside. And when it became apparent that the adjustments that we thought would occur and in fact have been occurring in the balance sheets got to a point where the economy could start to regain its momentum and gain a degree of

X000455

expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists. The issue is not, do we see inflationary pressures emerging, BUT what is the reason why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures. So, it's the issue -- I would reverse the question, not do we see inflationary pressures, but what reason would we have, once the recovery seems well entrenched, as indeed I believe it is, would we wish to keep an excessively accommodative stance? That is not a statement which says we are setting inflationary pressures emerging; indeed, as I said in my prepared remarks to the House committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing we're sure at that point is we are very far advanced in the process, and history tells us that that type of policy which we engaged in much too often, is wholly inappropriate to maintaining long-term economic stability. SEN. RIEGLE: Well, let me just say to you I find that a very important clarification and point that you've just made. And I think it puts this in a somewhat different light than some of the commentary, I think, has given to it because what I hear you saying is that you've -- you've had a monetary policy that has been overly accommodative in order to try to get sort of the engine going again and that you overcorrected in a sense -- MR. GREENSPAN: Deliberately. SEN. RIEGLE: -- deliberately. And now that it has gotten the traction that it needs to have, as far as you can tell, you're taking back some of that overcorrection but not for reasons of the fact that you see this inflationary tinder building up here. MR. GREENSPAN: Precisely. And, in fact, I've tried to make that point every time I've stated this, and I somehow don't seem to get it across as well as I think I would like to. SEN. RIEGLE: Well, I think you got it across pretty well right now, and we've got a pretty good sized press table that I hope will have gotten it down even though it's 20 to two, which is sort of a late hour for us to all be meeting here -- (laughter). But I thank you for that. I think that's a very important distinction, and I think it's important for the economic system and the markets to understand what you've just said. Senator D'Amato. SEN. D'AMATO: Thank you, Mr. Chairman. Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up and -- as it relates to any meetings with White House staff or counsel. Mr. Altman, I think you said that you and a -- an official from Treasury sought out Mr. Nussbaum. Is that -- is that correct? MR. ALTMAN: Yes, I did. SEN. D'AMATO: Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel. MR. ALTMAN: Solely to ensure -- SEN. D'AMATO: Solely to -- ? MR. ALTMAN: Solely to be sure that he understood the legal and procedural framework within which the RTC was working. And if you recall, as I said at that time, it was a February 28th date which was the subject of major attention in the Congress and in the press. It's not uncommon of meetings of that type to take place. And I'd describe it as a "heads up" and a very stiff conversation. SEN. D'AMATO: A "heads up". In what connection would that heads up be? You mean that the statute of limitations was running? MR. ALTMAN: No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th. SEN. D'AMATO: Was any representatives of the president or Mrs. Clinton or any legal counsel -- which I think would be appropriate -- speaking to the counsel for the RTC, or

X000456

people handling this particular -- this particular matter? I mean, was there any legal representation going on? Was this -- you just called them? Did they have any representatives, any counsel who may have been meeting with staff people or talking to staff people? MR. ALTMAN: I was accompanied by our general counsel, Treasury general counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the -- there at the time. SEN. D'AMATO: Oh, Ickes is in it, huh? Let me ask you this: Prior to this meeting, was there any representation -- was there any counsel that was being given representing the president's interest or Mrs. Clinton's interest or anyone else that you're aware of as it relates to the matter that you went to brief them on? MR. ALTMAN: No, not to my knowledge. Nor were there any substantive conversations -- subsequent conversations. SEN. D'AMATO: Did anyone request this meeting? MR. ALTMAN: I requested the meeting. SEN. D'AMATO: Was there any other meeting that may have been requested? MR. ALTMAN: No. SEN. D'AMATO: There was no other meeting that you are aware of that the White House counsel requested? MR. ALTMAN: No. SEN. D'AMATO: Or anyone else from the White House? MR. ALTMAN: No. SEN. D'AMATO: Mr. Ickes? MR. ALTMAN: I had no subsequent -- I received no subsequent requests for meetings. SEN. D'AMATO: Well, what about private counsel? Did private counsel -- I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel that was meeting with staff lawyers at some level? MR. ALTMAN: Not to my knowledge, Senator. SEN. D'AMATO: Ms. Ford, do you know of any? MS. FORD: No, I've had no involvement. SEN. D'AMATO: Let me turn to the RTC report which was dated February 8th, which we received last evening about 9:00 -- Resolution Trust Corporation -- and say to you that, in reviewing this document, I think it goes a little further -- does a little better job than the one that came out of FDIC. I found it interesting that in its conclusion on page five and six, in its summary before it reaches its disposition, it says, A, Rose represented Madison prior to its failure; B -- and I am not reading the whole sentence -- Rose represented the FDIC/RTC subsequent to the failure of Madison; C, Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC or the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell. And, by the way, I'm going to, Mr. Hove, read something to you that's quite illuminating. You better have your lawyers take a look at this. And when it gets all done doing that, it says, based on the factual conclusions in the RTC conflicts report -- it says we send it to counsel. Now, I have to tell you that I am going to ask -- because you have no conclusion. It just says, "These are the facts; these are the facts, fellows. Now, you do with it what you want" and sends it to counsel -- general counsel. I'm going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the inspector general. And as you've indicated before, you certainly wouldn't say, "I don't see any -- how that would impede anybody or anything." But I certainly would feel more comfortable that it goes to the inspector general as opposed to the general counsel. And I think it would guarantee the integrity of the review, certainly in this senator's mind and I think in others. MR. ALTMAN: Fine. SEN. D'AMATO: I thank you very much. I see that my time has expired. I have another observation to make, and I'll do that after -- at the appropriate time. SEN. RIEGLE: Senator Kerry? SEN. KERRY: Well, let me ask my colleague, is that going to be the last -- I mean, or is

X000457

there intention of colleagues to go a whole other round? SEN. D'AMATO: I think some colleagues have some other questions, and they'll raise them whenever -- SEN.

RIEGLE: I think maybe we're going to have one more go- around here with those that are left who want to do so. And then I think we're probably done here. SEN. KERRY: It was my understanding that we were going to have another hearing here in 10 minutes, which I'm also supposed to participate in. I'm just curious what the plans of the chairman are. If my time could not -- I'm just --

SEN. RIEGLE: They have a different room that they're meeting in -- SEN. KERRY: All right. So that's -- SEN. RIEGLE: -- so that we won't run into a room conflict. But we are late in the day, and the witnesses have been here a long time. So my intention would be to finish up a round here where everybody gets another turn at bat. SEN. KERRY: Well, maybe I could ask another -- just procedurally. I don't want to really use my time at this point. But it seems to me that maybe we could ask if anybody has any more questions to ask of the chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we're going to do is talk about another subject. SEN. DOMENICI: I -- is my turn imminent here? Or do I have a long wait? SEN. RIEGLE: Let me get my batting order here. SEN. DOMENICI: Because I don't want to keep him a long time, but I wanted to -- SEN. RIEGLE: Actually, you follow Senator Bond, who will come after Senator Kerry. Then we'll come back to Senator Boxer. So actually there are -- SEN. : How long is your question? Maybe they would let you get that -- SEN. DOMENICI: I don't want -- I don't have a question of Mr. Greenspan. I just want to state for the record that, frankly, I believe the actions you took over the last three or four years have a great deal to do with the status of the American economy. I frankly believe you were subject to some undue criticism, but if we have a solid recovery, I think it's very significantly related to the conduct of the Federal Reserve over the last 3-1/2, four years. SENATE BANKING/ FDIC OVERSIGHT PAGE 87 02/24/94 Maybe President Bush would have liked it differently, maybe Dick Darman would have, maybe it all could have happened earlier, but nonetheless, I think you're somewhat responsible, so I trust you at least on what you're doing now. SEN. RIEGLE: That reminds me a little bit of watching some of that Olympic skating competition last night when they throw the bouquets out on the ice. You just threw a nice one to the chairman. Senator Kerry? SEN. : You were critical of him. You wanted to loosen up even more. SEN. RIEGLE: Well, the other day I think my comments were comments that reflected some understanding as to what the chairman's trying to do, and I think he's put additional light on that today. I don't think this chairman wants to strangle the economy. I'm speaking of Chairman Greenspan, and, you know, sometimes you can do that and not intend to. But I think he's trying to be as prudent as he can be. Senator Kerry? MR. GREENSPAN: Excuse me. Mr. Chairman, is that -- (inaudible)? SEN. RIEGLE: Are you excused? Can you take your bouquet and go? (Laughter.) Yes, you can. Senator Kerry? SEN. BOXER: You get a 5.9 from me. SEN. RIEGLE: Senator Boxer gave you a 5.9. (Laughter.) SEN. BOXER: You skate so well (on the ice ?). SEN. RIEGLE: Especially on the technical portion of the -- (laughter) -- of the program. SEND EXCERPT SENATE BANKING/ FDIC OVERSIGHT PAGE 89 02/24/94 RESUMPTION OF COVERAGE x x x program. SEN. : (Off mike.) SEN. RIEGLE: Senator Kerry? SEN. JOHN KERRY (D-MA):

X000458

Mr. Chairman, I'm not sure I have time to stay through the whole process here, so I may review the bidding here a little bit. But just speaking as a former prosecutor, one of my colleagues over here was sort of questioning the duality. I can tell you, as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, multiple copies of documents moving around. I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly wouldn't be a judgment that I made to make things public in the middle of an investigation because it inevitably taints somebody's something and it creates a very hard process for pursuing a track. What astonishes me here a little bit -- and I want to reiterate it -- I mean, we've got \$150 billion problem here which taxpayers are paying for. They're already angry enough about us wasting their time and duplicitous process. And here we are, frankly, with very important people in front of us having spent a morning not really examining where that \$150 billion went, not talking about it, but dealing instead with politics. And that's what this really comes down to, it's politics. It's totally unnecessary. In the context of the gentlemen who has been made a special prosecutor, a Republican appointed by a Democrat -- and let me just share with colleagues again quickly something about Mr. Fiske. This is an article from the New York Times right after he was appointed: "Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest. 'The choice is one that you simply can't argue with,' said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush and a college classmate of Mr. Fiske's more than 40 years ago. 'He's one of those guys who has always conducted himself with integrity.'" The article goes on to say that: "Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the first family." Now, if that's not enough, if we don't have the patience to allow him to do his job and sit here and ask relevant questions about \$150 billion, we ought to ask what we're doing. I mean, this is why the taxpayers get so fed up because all we do is dig into politics. And there's a huge distinction between this case and prior cases because we are not looking at a current situation where the president is currently making decisions about current money being spent or current policy. This is something that happened when he was governor -- if whatever happened happened -- and I suggest that this prosecutor has the ability to get at it. If he doesn't, I'll join with Senator D'Amato, I'll be one of the first people -- I think I have a good reputation here on the basis of BCCI and Noriega and other investigative efforts in pursuing things. But I think back to the time that I was trying to do that. I didn't have any help from the other side of the aisle. We did not get subpoena power. We did not have the ability to have a full-fledged investigation in this committee on that. And I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a special prosecutor. Most of my colleagues making a lot of noise about this now opposed having a special prosecutor. So I just think fair is fair at some point in this business. We all understand the game and we all understand what happens. But it seems to me that to take a 150 billion dollar fiasco and relegate it to a second tier for this 194 state-run -- who was the primary

X000459

regulator of this institution originally? MR. : The -- originally it was the Federal Savings and Loan Insurance Corporation, and then later OTS. SEN. KERRY: So it came to the federal government secondarily. And, I might add, for two years this case was closed. It wasn't until six weeks before the election -- and we ought to ask some questions about this -- that suddenly, when Bill Clinton was the nominee for president of the United States, that there was a criminal referral to the RTC, not until six weeks before the election. For two years while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today. So I'm not saying questions shouldn't be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions because it's a sorry chapter in American politics. But that's going to happen, the 25 FBI agents and depositions and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes, avoiding the real issues that they would like us to dig into. And I don't think much more needs to be said beyond that. SEN. RIEGLE: Senator Bond? MR. : Mr. Chairman, may I make a correction? SEN. RIEGLE: Yes. SEN. KERRY: I think Senator Kerry asked who was the primary regulator. The primary regulator was the state of Arkansas. SEN. KERRY: Well, that was what I was getting at. The primary regulator was the state. MR. : Exactly. And the primary federal regulator was FSLC and OTS. SEN. KERRY: Correct. So the issue of federal nexus here in terms of decisionmaking is only by transfer, not by original jurisdiction. So what we're doing is secondary to the third tier. SEN. RIEGLE: Senator Bond? SEN. BOND: Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer. I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions, which are along the lines that Senator Kerry raised. I also have a series of questions for the FDIC and for the RTC which follow up on these other questions, but in the time remaining I do want to pursue a couple of items. When we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were. Now, if the RTC under your direction were requesting records from the first lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the first lady? MR. ALTMAN: Senator, I don't get involved in any substantive aspects of any PLS case, particularly -- or including documents that they may seek. So they've never brought that to my attention since I've been in this job, and that goes right through today. SEN. BOND: So you wouldn't expect them to tell you. MR. ALTMAN: No, I wouldn't. SEN. BOND: I find that remarkable. In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some members of Congress. Could you furnish to this committee the latest, most up-to-date inventory and provide the hearing -- for the hearing record along with the previous versions? Would you make that available? MR. ALTMAN: Last evening we supplied the -- 6,500 pages of information to Senator D'Amato's office, as we had some time earlier to Congressman Leach. SEN. BOND: And is that the entire inventory? Are those all the documents? You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at the particular time, a new standard for delivery in

X000460

package express. MR. ALTMAN: Well, I have here a list of the documents. SEN. BOND: Is that the latest version? MR. ALTMAN: This is just a list of what the documents are. There's 6,500 in total pages. This is a list of the documents we provided. SEN. BOND: If you could make one available for the record, we would like to have that. I'd appreciate it. MR. ALTMAN: Be delighted. SEN. BOND: Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison? MR. ALTMAN: Last fall I was advised that the question of a referral to the Justice Department was under consideration at the RTC, and as other members of the RTC staff will attest, I said that normal procedures, with no deviation whatsoever, should be pursued, including chain of command procedures, in terms of reaching that conclusion. I might tell you that typically decisions like that are made at the regional office level, and that it was in this case. SEN. BOND: Were you aware that the regional office had asked the national office to make a determination as to whether the Clintons' name should be in the new expanded referral? MR. ALTMAN: No. SEN. BOND: You did not know they were asking for the national office to make a determination on that? MR. ALTMAN: No. I was simply informed that this issue was on the table, and my reaction was -- I had only one conversation about it -- that normal procedure should be followed. That's the way we're going to handle this thing from beginning to end. SEN. BOND: How was the White House notified of the referral? Was it from your agency? MR. ALTMAN: ~~They were not notified by the RTC, to the best of my knowledge.~~ SEN. BOND: ~~Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?~~ MR. ALTMAN: Not to my knowledge. (Confers off mike.) Ms. Ford, do you know if the White House was notified by the RTC? MS. FORD: No, we have had no involvement at the Oversight Board whatsoever. SEN. BOND: When was the firm of Madison & Pillsbury put on retainer by the RTC, do you know? And for how long and what cost? MR. ALTMAN: I don't know that. I'm aware that that firm has been retained as outside counsel on this matter, but I'm not aware of the date on which it was retained nor the retainer arrangements. SEN. BOND: Will they review the potential of suing the various law firms who represented Madison or the board of directors? MR. ALTMAN: I don't know the answer to that question. SEN. BOND: We'd appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that. And finally, I'm advised that the list you have there is just an inventory of the documents provided to Senator D'Amato; it is not the complete inventory of the documents pertaining to Madison. And if I'm mistaken, in either event, we would appreciate receiving a copy of the inventory of the entire documents. MR. ALTMAN: Well, Senator, I'm not sure I fully understand your question. But what we have released amounts to what we've been asked for, less any documents that, in our judgment, could prejudice the investigation. I told you earlier that we'd had a couple of conversations -- I haven't had them; I'm advised there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we're trying to adhere to that. SEN. BOND: As I understand it, that you have prepared an inventory. I'm not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps members of the House side, or others, with the inventory, not the contents of the documents. MR. ALTMAN: Any information, I assure

X000461

you, that we have supplied to Congressman Leach or anyone else -- elsewhere in the Congress, we're delighted to supply to you or anyone else here that would like them.

SEN. BOND: Would that include an inventory, a cataloging, not the contents but a cataloging of the documents in the Madison case? MR. ALTMAN: We will supply you with any information to that extent that we can which does not get into areas that we think would prejudice the investigation. SEN. BOND: Thank you, Mr. Chairman. SEN. RIEGLE: Senator Boxer? SEN. BOXER: Mr. Chairman, I'd like to -- I'm still working. SEN. RIEGLE: All right. Senator Domenici, you're next in the order. SEN.

DOMENICI: Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel. MR. ALTMAN: Yeah, one substantive contact. SEN. DOMENICI: Please? MR.

ALTMAN: One substantive or meaningful contact. SEN. DOMENICI: Yeah. Well, I assume -- we're not arguing there that you had -- you're not suggesting you had more than one, are you? MR. ALTMAN: No. I'm just saying that if you -- you know, you run into someone in the hall -- did you see that thing in the paper this morning? -- I'm not including that. SEN. DOMENICI: All right. You said you were there to give a heads-up.

What I understand the situation to be on average folks, a couple of them in my state that were bordering up alongside of a statute of limitations becoming a defense, they were presented with a tolling agreement, and if they didn't sign it, suit was filed so as to toll the statute. Is that a rather fair assessment of the way business is done? MR. ALTMAN:

I think I'd have to know the details of the matter, Senator. SEN. DOMENICI: Well, I guess what I'm wondering, are we getting the right perspective of why you did this? Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement, or to know that the normal process was that the toll -- the statute's going to toll, and there's reasonable grounds to suspect something, they might expect a lawsuit? Or why else would you give them heads-up? MR. ALTMAN: The difference between this and a matter like the one you referred to is that I had been receiving -- had begun to receive a lot of inquiries, including in writing from Congress, as to what procedures the RTC was going to follow, and I wanted to give them the same sense of those procedures that I was giving members of Congress. And I said to them nothing different than I've said to members of Congress. SEN. DOMENICI: Well, I understand that, but I guess what I'm getting at is there must have been a reason for telling them that. Congress was just saying the statute's going to run, what are you going to do, so you went over there to tell them that we're going to apply the same thing we do in any other case? And that's the heads-up that you were giving them? MR. ALTMAN: That's right.

SEN. DOMENICI: Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement or filing a lawsuit? MR.

ALTMAN: Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994; that the RTC was going to make every effort to make a decision by that date. It could fundamentally reach only one of two decisions, that there was a basis for a claim or that there wasn't. If there was a basis for a claim then we would either seek a tolling agreement to permit more discovery and more preparation or we would file that claim in court. SEN. DOMENICI: Well the passage of the statute of limitations extension eliminates that problem as you have already indicated. I guess, Mr. Chairman, I'm having a little difficulty with explanation

X000462

because one way of looking at it was that it was not a very meaningful or important meeting -- that he was just doing this so that he would be able to tell Congress he had told them he's going to treat them the same way as others. I don't think a man -- you know, I know you fairly well -- I don't think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they're going to be treated the same way as other people -- MR. ALTMAN: Senator, I did not know whether they knew of such procedures which as I say I was then communicating to members of Congress and it just seemed to me a little odd to explain to a member of Congress that we're going to follow "XYZ" procedures and not have them ever be made aware of what those were. SEN. DOMENICI: Well, I want to close on this remarks by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry, you know, it's almost an insult to accuse us of not being concerned about oversight and that some how or another the other side is more interested in how the RTC turned out. Frankly, that's just borders on being a joke. This hearing, we have all your statements, we're going to read them. So we're going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they'll brief us so we're going to know. My last observation would be that it's inconceivable to me Mr. Altman that you would really be concerned that the people involved in the investigation, whomever they are, whether it be the people in Arkansas, whether it be confidants of the President, whomever, that they would not know that the statute of limitations was going to toll and that that presented a situation that you had to advise somebody on. I just don't think anybody involved in this would not know that. MR. ALTMAN: Senator, I also -- I would agree with you. I can't say for sure. I don't know what was in their minds. I doubt very much that they did not know about the statute of limitations. SEN. DOMENICI: Right. MR. ALTMAN: What I was saying was not that. What I was saying was I did not know if they knew and, frankly, my impression is, as a result of that meeting, they hadn't previously known what procedures the RTC would be following. By that I mean that you have to choose between -- you have to reach a conclusion as to whether there's a claim or there isn't, and then what you have to do if you reach the conclusion that there is. SEN. DOMENICI: All right. Thank you very much. SEN. RIEGLE: Thank you. Senator Faircloth? SEN. FAIRCLOTH: Thank you, Mr. Chairman. And I will echo Senator Domenici. You have done a superb job of conducting. And I'll be very brief. My questions are to Mr. Hove. Mr. Hove, we keep coming back -- you said the FSLIC issued this report, who has long been out of business, and did the investigation on Mrs. Clinton and her relationship. MR. HOVE: No, sir, I didn't say FSLIC. I said that the agency that handled the closing of First American was FSLIC, and that occurred before FDIC had any involvement in that. SEN. FAIRCLOTH: All right. But who did the investigation -- I assume there was one done -- to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at? MR. HOVE: We did not do an investigation, we did not do a review because we don't have all the records. The records are the old FSLIC records that are not in one central repository. All we did was review the records that we had available at the FDIC, and the records that we had at the FDIC only indicated that Mrs. Clinton's involvement, from the records that we could review, was the two hours that she spent filing the amended complaint for her partner, Vince Foster. SEN. FAIRCLOTH: So, what you're saying really is that you did a very

X000463

incomplete and surface investigation. MR. HOVE: We did not -- we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC. SEN. FAIRCLOTH: Well, I would say that Mr. Whitney (sp) issuing such a clearance for Mrs. Clinton in the name of the FDIC doesn't lend a lot of credibility to an FDIC investigation when he makes his statements and when you didn't really have the records to make an investigation, from what you're telling me. MR. HOVE: What we were doing was correcting the information that was erroneous in the Chicago Tribune report because the Chicago Tribune said that it was an FDIC case, we said it was not an FDIC case. And we also said that from our records, this was the only involvement that we could have. SEN. FAIRCLOTH: Well, don't you think it would be a good idea to hunt up the old FSLIC records and see what they might lead you farther? But I have a question, and then I'm going to -- (inaudible word). The original suit was \$3.3 million. They settled it for 6 cents on the dollar, or \$200,000. What I want to know is how much was Mrs. Clinton paid, or the Rose law firm. MR. HOVE: I can't tell you. I don't know that. SEN. FAIRCLOTH: Can you find out? MR. HOVE: We can try. SEN. FAIRCLOTH: Well, I would like for you to let me know as quickly as possible how much the Rose law firm was paid, and also their work records to indicate who did the work to earn the money, because -- you say she worked two hours. MR. HOVE: I didn't say that. I said the only thing that we can ascertain from the records we have was that she worked two hours. And let me remind you, Senator, that these records are disbursed from wherever FSLIC had the records, and we did not take possession of those records when FSLIC was closed down. SEN. FAIRCLOTH: Are those records still available? MR. HOVE: I don't know. SEN. FAIRCLOTH: If she settled the lawsuit, the amount of hours she worked -- it is just impossible for me to believe she settled this lawsuit against Lassiter (sp), she signed the amended return, which was the settlement, the amended complaint, which was the settlement against Lassiter, at a very favorable rate, then we turn around and find that Lassiter's -- the person with his power of attorney is back in the White House working. MR. HOVE: Senator, the amended complaint reduced the complaint from 3.3 million to 1.3 million. The suit -- the settlement was some six months later. I don't know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from 3.3 [million] down to 1.3 [million]. SEN. FAIRCLOTH: So we have no idea whether Mrs. Clinton made the final settlement totally. MR. HOVE: I have no idea from our records and what we've seen -- SEN. FAIRCLOTH: And this two-hour thing -- she could have worked 200 hours. MR. HOVE: What I have told you is what we have available at the FDIC. SEN. FAIRCLOTH: But she could have worked 200 hours on it. MR. HOVE: And all I'm telling you is that the records that we have indicate she worked two hours. (Confers off microphone.) Okay, the only records we have was that she billed FSLIC for only those two hours. SEN. FAIRCLOTH: Billed who? MR. HOVE: FSLIC. (Pronounces each letter.) SEN. FAIRCLOTH: How about getting the total records from FSLIC and finding out how much the total bill was and whose time was billed? I'd like to see it. Thank you. SEN. RIEGLE: Senator D'Amato? SEN. D'AMATO: You know, Mr. Hove, I have difficulty if you really have trouble figuring out when a claim is initially lodged for \$3 million and then it is reduced and you say, well, you know, the law firm or this partner -- in this case, Mrs. Clinton -- only billed for two hours. But the nature of the work was such as to reduce that lawsuit and the potential liability to Mr. Lassiter

X000464

(sp), who has a definite relationship with the Clintons. I mean, are we really to believe you don't understand that? Now, don't give me this two-hour stuff. I mean, the fact is that that claim was reduced -- the potential of the claim -- from 3 million down to a 1 million some odd, and therefore, a settlement of \$200,000 is much more reasonable in appearance when the initial -- when the suit is only asking for a 1.3 million as opposed to 3 million. Now, doesn't that make some -- I mean, do you see why a senator or anyone else would make an inquiry and say, "Look" -- I mean, what's the situation here? Are you telling us there was no conflict there. MR. HOVE: But, Senator, you're asking FDIC, and FDIC did not have any involvement in that suit at that time. SEN. D'AMATO: I'm not suggesting that. What I'm suggesting to you is that a period of time it came under you for review. And if you look at this -- don't keep telling us that FDIC didn't have anything at that time. We're not suggesting that you did anything wrong. We're suggesting you take a look at the facts, take a look at the record, and you can be a school boy, you can't come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person that they brought a suit to. And as a matter of fact, whether it was two hours or one hour, the determination was made to reduce the claim that might bring the potential liability from \$3 million down to \$1 million and eventually settle for \$200,000. Now, we don't know who was responsible for the settlement. But the fact of the matter is that the partner who reduced and amended that complaint was Mrs. Clinton. Now that's obvious. I'm not going to spend my time going back and forth with you. I'm going to tell you something else, though. When we talked about the potential for conflict before, as it related to the Madison Guaranty and Mr. Hubbell, I want to refer you to a letter of June 8th, 1989. Now, Mr. Hove, you stated that since the Rose law firm -- when I first brought this up to you -- was suing Frost, it wasn't relevant that Web Hubbell's brother-in-law and father-in-law were suing Madison. Now, if you take a look at that letter -- and I'm going to suggest to you that you're wrong, and that's why you'd better have the IG look at this. June 8th, 1989, and it is written to April Breslaw (sp), Attorney, Federal Deposit Insurance Corporation. I'm reading part of it: "Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately \$447,000." Now, I'm going to skip the next sentence, go down to -- "Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought, whether in state or federal court. At a minimum" -- it goes on to say -- "the state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Miss Styrahorn (ph) has informed me that the informal -- the information contained in the audit files could be damaging to our case, especially if a new trial is granted." It goes on and it concludes: "I offer this information because there appears to be a conflict in representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter." Now, look, I'm not suggesting that at that time that you know of it. Here it is. And that's why, if you don't refer something to the IG to clarify whether or not there was a conflict, you can't be doing the right thing. And for you to maintain, "Well, we weren't there at the time; it was at FSLIC" or "Maybe the rules were a little vague." I mean, for god sakes, you had lowly auditors saying, "Wake up, fellas." You had an auditor in another letter saying it's impossible to think that he's not going to tell his in-laws what's going on. So that's the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

X000465

Mr. Chairman, notwithstanding first of all I'm going to ask that we be permitted to submit some documents for the record that have been returned to -- SEN. RIEGLE: Without objection, so ordered. SEN. D'AMATO: -- so we can keep an orderly proceeding. Secondly, I want to say before I conclude that you could not have been fairer in making available this opportunity and according the members the opportunity to make their presentations and to ask their questions under very difficult circumstances. So I want you to know that. And I think that I speak for all the Republicans on the committee in relationship to the manner in which you have conducted this proceeding. And it's not easy for you, and I just want to commend you for your impartiality. And let me conclude again. I think what we're interested in, in this, is seeing -- and Senator Domenici said -- that the process moves forward without there being interference, without there being a question as to what documents have been made available to the appropriate people, what has been taken. Some of these things have no -- I see Mr. Altman. He's placed in a very, very difficult position. I've said that publicly as well. It is a very, very difficult situation. And it certainly -- it leads to us raising the kinds of questions that we have. But I tell you this senator wants to see that what was supposed to be done was done, that what should be done at the present level is carried out in a manner in which everyone can say that the right thing was done. And then let the chips fall where they may. So, Mr. Chairman, again, thank you for providing us an opportunity to put forth our concerns, and hopefully, this will move us a step closer to resolving this matter. Thank you. SEN. RIEGLE: Thank you very much. We'll give you some questions for the record, and we'd ask you to respond to them. The committee stands in recess. END LANGUAGE: ENGLISH

LOAD-DATE-MDC: February 24, 1994



X000466

FACSIMILE COVER SHEET

OFFICE OF THE
ASSISTANT SECRETARY FOR ENFORCEMENT
DEPARTMENT OF THE TREASURY

Phone # (202) 622-0240

Fax # (202) 622-1486

DATE: 3-7-94Page 1 of 4TO: Bernard NussbarmPHONE: 456-2632FAX: 456-6279FROM: Ronald NobleMESSAGE: Personal + Confidential

REDACTED

X000467

REDACTED

Last week news reports and editorials intimated that three of my colleagues and one former colleague had made a mistake involving the Resolution Trust Corporation ("RTC"). My colleagues had contacted Mr. Nussebaum about the RTC's investigation into activities of Madison Guaranty/Whitewater. Though there is no evidence to support evil motives, some have accused my colleagues

X000469

of engaging in behavior to influence the outcome of the activities of an independent regulatory agency. The silence in their support has been deafening.

I have no personal knowledge of what happened, but I do know Roger Altman, Jack Devore, Jean Hanson and Josh Steiner; therefore, I cannot remain silent. These individuals represent the highest ideals of integrity and honesty. During the time that I have known them, not one occasion has arisen where I have had to question their integrity. To the contrary, they have strived to ensure that the interests of the President, the Secretary, the Department of the Treasury and the American people were properly, ethically and honestly represented. In my view there are no finer public servants than these individuals.

I worry that there will be other people who arrived in Washington with stellar reputations, but who will leave this city unable to have achieved what I described above as a simple goal -- the maintenance of one's reputation for integrity.

X000470

3/8/97

JK:

This is a
note regarding
the times
Past Hanson
was warned in
on Feb. 2. I
got the info
on 3/7/97

Wms 120pm

Me 500pm

X000471

did not have briefing on
RTC re ww

Some guy from RTC
called in Fall

lot of reporters
working on ww

JK note
3/8/94

There are
notes of
my discussion
w/ Lisa Caputo
re Wash Post
story concerning
her contacts
with RTC

Sue Schmidt
ABC
NBC

Some women from
Texas

news stories that
press was work

no contacts re
criminal

REDACTED

X000472

November 18, 1993

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen

SUBJECT: Weekly Report for the week of November 21

KEY DEPARTMENT NEWS

X000473

REDACTED

XU00474

.....

Madison Guaranty Savings and Loan: Banking Committee Chairman Henry Gonzalez is gearing up for a full-scale investigation of alleged improprieties in the management and resolution of Madison Guaranty Savings and Loan in Arkansas. According to Banking Committee investigators, the Committee will soon demand access to all records regarding Madison from the RTC, the FDIC and the Office of Thrift Supervision (OTS) in conjunction with planned hearings.

Committee investigators have also intimated that the Committee stands prepared to invoke subpoena power in accessing all Department of Justice records and files on Madison. The focus of Committee resources on Madison will preclude the Committee's prior plans to aggressively explore regulatory exclusions and their potential impact on the industry.

X000475

REDACTED

(4 pages)



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

X000476

REDACTED

February 18, 1994

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen
SUBJECT: Weekly Report for the week of February 20, 1994

KEY DEPARTMENT NEWS

Possible Treasury-related topics for press coverage include:

- o RTC's handling of Madison Guaranty

THE WEEK AHEAD

RTC's Handling of Madison Guaranty: Along with the other members of the RTC's Oversight Board (Roger Altman in his capacity as acting head of the RTC, Acting OTS Director Jonathan Fiechter, FDIC Chairman Skip Hove, and Fed Chairman Alan Greenspan), I will appear before the Senate Banking Committee for the required annual Congressional hearings. Republican members have pointed out that the annual hearing did not occur last year and have been pressing to hold it as soon as possible in order to use it as a forum to publicize their allegations on Whitewater and Madison Guaranty.

X000477

REDACTED

585



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

X000478

REDACTED

January 27, 1994

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen

SUBJECT: Weekly Report for the week of January 30, 1994

KEY DEPARTMENT NEWS

X000479

REDACTED
(6 pages)

X000480

REDACTED

D. Controversy

Madison Guaranty: The Office of Thrift Supervision has received four requests under the Freedom of Information Act for documents pertaining to Madison Guaranty Savings & Loan. OTS's Director of Information Services, a resident expert on FOIA, is in Dallas reviewing OTS's considerable accumulation of related documents. In addition, Congressman Jim Leach has requested staff access to related documents.

X000481

REDACTED

589



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

X000482

REDACTED

February 4, 1994

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen

SUBJECT: Weekly Report for the week of February 6, 1994

KEY DEPARTMENT NEWS

X000483

REDACTED
(6 pages)

X000484

REDACTED

D. Controversy

Madison Guaranty: Officials from the Office of Thrift Supervision met on January 25 with Senate Banking Committee staff to discuss Congressman Leach's request for access to OTS records on Madison Guaranty.

X000485

REDACTED

593



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

X000486

REDACTED

February 10, 1994

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen

SUBJECT: Weekly Report for the week of February 13

KEY DEPARTMENT NEWS

X000487

REDACTED
(4 pages)

X000488

REDACTED

Community Reinvestment Act (CRA) Hearings: Congressman Kennedy, Chairman of the Subcommittee on Consumer Credit and Insurance, held his CRA hearing on February 8. The four regulators (Office of Thrift Supervision, Comptroller of the Currency, FDIC, and the Federal Reserve) testified. Rep. Bacchus asked what impact interstate would have on the proposed CRA regulations. Comptroller Ludwig responded by indicating that they were taking interstate into consideration as they develop the final CRA proposal. In addition, Rep. Bacchus asked OTS Acting Director Fiechter why it was taking Secretary Bentsen so long to have RTC oversight hearings and whether the Secretary was dedicated to conducting these hearings. Republicans have announced their intention to use such hearings to probe Whitewater/Madison Guaranty. Fiechter told him that as far as he knew the Secretary would participate in the hearings, but the House and Senate Banking Committee Chairmen would be responsible for scheduling.

X000489

REDACTED

(2 pages)

597



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

X000490

REDACTED

February 24, 1994

MEMORANDUM FOR MACK McLARTY, THE WHITE HOUSE

FROM: Lloyd Bentsen

SUBJECT: Weekly Report for the week of February 27, 1994

KEY DEPARTMENT NEWS

THE WEEK AHEAD

X000491

REDACTED
(5 pages)

REDACTED

X000492

E. Controversy

Whitewater/Madison Guaranty: In my capacity as Chairman of the RTC's Oversight Board, I joined Deputy Secretary Altman (interim RTC CEO) and the other board members today to testify before the Senate Banking Committee for their semi-annual RTC hearing. Committee Republicans seized the opportunity to focus attention upon Madison Guaranty and Whitewater.

The House Banking Committee has yet to schedule a date for its hearing at which both Roger Altman and I will testify.

X000493

29

WHITE WATER Q&A
Draft Transcript of the President's Q&A
Thursday, March 3, 1994

Q Mr. President, are you concerned about the appearance of impropriety of these meetings between Treasury officials and the White House?

X000494

THE PRESIDENT: Yes.

Q Have you been able to find out if there have been any other meetings other than the one that was reported? And what will be done about it?

THE PRESIDENT: Well, first of all, the answer is, yes, I'm concerned about that. Nearly as I can determine, no one has actually done anything wrong or attempted to improperly influence any government action. But I think it would be better if the meetings and conversations hadn't occurred.

I think now that there is an actual formal process underway, everyone will be much more sensitive. But I have directed Mack McLarty to prepare a memorandum about how we should handle and respond to any such contacts coming our way in this office so that we will bend over backwards to avoid not only the fact but any appearance of impropriety. It is very, very important to me.

I was a Governor for a long time, and there was never a hint of impropriety or scandal in my administration. And to the best of my knowledge the people who come here to work everyday in this administration, there has been no suggestion of abuse of power or anyone pursuing some personal advantage. And I want the American people to feel that. So I have told Mr. McLarty that we have to -- we've already talked to people here in the office to make it clear that they understand that I -- first of all, I feel that this -- all these investigations, they should go forward, unimpeded and as quickly as possible. And I have every confidence in what the facts will reveal. So I think that it's very, very important that while all this is going on that the activity around it should be handled in such a way as to avoid even the appearance of a conflict.

-continued-

X000495

REDACTED

SCHEDULE FOR Thursday 14 OCTOBER 1993

MARK GEARAN	POTUS
7:30A	10:30- 11:30A
8:00A	
8:30A	12:00- 1:00P
9:30A	
12:45P	1:15P
1:15P	1:45- 4:00P
2:15P	4:05- 4:35P
3:30P Meeting in Bernie's office Cliff, Josh S, Jack Devore	4:45P
5:00P	5:30P
5:00-	
7:00P	

X000496

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

December 23, 1993

Statement by the Director of Communications

The President and Mrs. Clinton today instructed their personal attorney to provide appropriate law enforcement authorities at the Department of Justice with all documents relating to the Whitewater Development Corporation, including those in the files of Vincent Foster, which were turned over to their personal attorney after Mr. Foster's death.

TALKING POINTS ON CONGRESSIONAL HEARINGS ON RTC

2-22-94

BACKGROUND:

Congressional hearings on the Resolution Trust Corporation, a Treasury Department unit and the government's chief savings and loan clean-up agency, are scheduled to begin this week. The Wall St. Journal reported today that this will give Republicans their first chance to grill administration officials, including Secretary Bentsen and Roger Altman, over legal issues related to RTC handling of Madison Guaranty.

Altman is interim RTC chief. The Senate Banking Committee has set a Thursday hearing to receive the Thrift Depositor Protection Oversight Board, which monitors the RTC. Bentsen is chairman of the oversight board, Altman is a member. The Journal reports that Altman is expected to get special GOP attention on whether, as a former college classmate of the President, he should recuse himself from matters involving Madison. To date he has not done so.

Per Howard Schloss, Department of the Treasury

AS BACKGROUND:

- * They would like us to say as little as possible about this. Bentsen/Altman's testimony is still being written. Altman has tried to emphasize that he has had no contact with the White House over this matter. Therefore, we should not be in the position of discussing his actions in regard to Madison.

MAJOR TALKING POINTS:

- * As Mr. Altman is interim CEO of an independent agency, it is not appropriate for the President to tell Mr. Altman whether or not to recuse himself. Mr. Altman has made statements regarding his position in the past, which I believe stand for themselves. For further comment regarding his role in this matter, I would refer you to Mr. Altman.
- * Q: Is the White House worried about the hearings?
A: Not at all.

605

X000498

(K)

REDACTED

(draft 1/8 1:00 p.m. (wne))

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

X000499

REDACTED

X000500

REDACTED**IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS**

Mr. Foster committed suicide in July 1993. No files were removed from his office prior to an examination of those files by White House Counsel Bernard Nussbaum in the presence of law enforcement officers. In the presence of those officials, Mr. Nussbaum reviewed and noted the files in Mr. Foster's office, including a file related to Whitewater. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including Whitewater, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family. The few Whitewater files that were in Mr. Foster's office at the time of his death were sent to the Clintons' personal law firm for safekeeping and storage.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records to the Department. As would be entirely routine and to protect the integrity of the investigation, the President's lawyer requested a subpoena to cover the documents. Delivery of the documents to the Department began on January 6. Those documents will be reviewed by the grand jury investigating Madison in Little Rock.

X000501

~~SENATOR BOB DOLE~~WHITE HOUSE POLITICSMARCH 7, 1994

(MR. DOLE)

MR. PRESIDENT, AS THE
WHITEWATER CONTROVERSY
GROWS, IT'S^{IS} NOT SURPRISING
THAT THE POLITICAL CHARGES
ARE HEATING UP AS WELL.


LAST WEEK, PRESIDENT
CLINTON HIMSELF MADE THE

X000502

**UNFORTUNATE CLAIM THAT
REPUBLICANS ARE SOMEHOW
RESPONSIBLE FOR THE LATEST
WHITEWATER WOES, STATING
THAT WE HAVE ACTED IN A
"FAIRLY BLATANT, BALD, AND
TOTALLY POLITICAL WAY." AND
YESTERDAY, WHITE HOUSE AIDE
GEORGE STEPHANOPOLOUS
FORGOT THE PRESIDENTIAL**

X000503

**CAMPAIGN WAS OVER,
SUGGESTING ON NATIONAL
TELEVISION THAT REPUBLICANS
ARE SOMEHOW GINNING UP
WHITEWATER FOR OUR OWN
POLITICAL ADVANTAGE.**

**MR. PRESIDENT,
NOTWITHSTANDING THESE
CHARGES, WHICH I REJECT, IT'S** 
THE DEMOCRAT CONGRESS

X000504

**THAT CONTINUES TO BLOCK
WHITEWATER HEARINGS. IT
WAS THE CHAIRMAN OF THE
DEMOCRATIC NATIONAL
COMMITTEE WHO PLAYED
"POLITICAL TOUGH GUY" WHEN
HE TRIED TO INTIMIDATE
SENATOR D'AMATO WITH A
THREATENING LETTER NOTABLE
ONLY FOR ITS CLUMSINESS. IT**

X000505

^(not)
**WASN'T AN R.N.C. NEWSLETTER
THAT RAN EDITORIALS WITH
TITLES LIKE "SLOVENLY WHITE
HOUSE ETHICS," "WHITE HOUSE
ETHICS MELTDOWN," AND "MR.
NUSSBAUM GOES--NOT THE
MESS." THAT'S THE NEW YORK
TIMES AND THE WASHINGTON
POST.**

AND, MR. PRESIDENT, THE

X000506

**BIGGEST POLITICAL PLAYERS IN
TOWN ARE APPARENTLY IN THE
WHITE HOUSE ITSELF: IN
TRAVELGATE, AND NOW IN
WHITEWATER, WHITE HOUSE
STAFF HAVE PLAYED WITH FIRE,
SHOWING A BRAZEN
WILLINGNESS TO MIX POLITICS
WITH LAW ENFORCEMENT.**

THE BOTTOM LINE IS:

X000507

**WHITEWATER IS A CASE STUDY
IN SELF-
IMMOLATION...OMISSIONS,
MISSTATEMENTS OF FACT,
"NEGOTIATED" SUBPOENAS,
BEHIND-THE-SCENES
MEETINGS...HAVE ALL CREATED
THE IMPRESSION THAT THERE'S
SOMETHING TO HIDE, THAT
THERE'S SOMETHING UNSEEMLY**

. X000508

**LURKING IN THE WHITEWATER
BOG.**

**I MAY BE WRONG...AND I
HOPE I AM WRONG.**

**MR. PRESIDENT, LAST
WEEK, 43 SENATE REPUBLICANS
SENT A LETTER TO THE
DISTINGUISHED MAJORITY
LEADER STATING THAT WE WILL
HOLD UP THE NOMINATION OF**

X000509

**RICKI TIGERT, PRESIDENT
CLINTON'S NOMINEE TO HEAD
THE F.D.I.C., UNLESS THE
SENATE BANKING COMMITTEE
HAS THE OPPORTUNITY TO
THOROUGHLY EXAMINE THE
RECENTLY-REVEALED WHITE
HOUSE-RTC-TREASURY
MEETINGS. ^{115/}IT'S MY HOPE THAT
THE DEMOCRAT LEADERSHIP IN**

X000510

**CONGRESS WILL WORK WITH
REPUBLICANS TO SCHEDULE
THESE HEARINGS SO THAT THE
AMERICAN PEOPLE CAN GET A
FULL ACCOUNTING OF THE
WHITEWATER MESS.**

**AGAIN: IF THERE'S ^{has} BEEN
NO WRONGDOING, THERE
SHOULD BE NOTHING TO HIDE.
AS I POINTED OUT LAST**

**WEEK, THE CONGRESSIONAL
RESEARCH SERVICE HAS
PREPARED A MEMORANDUM
LISTING MORE THAN 20
CONGRESSIONAL HEARINGS
AND INVESTIGATIONS INTO
ALLEGED EXECUTIVE BRANCH
WRONGDOING DURING THE
REAGAN AND BUSH
ADMINISTRATIONS. THE**

X000512

**DEMOCRAT-CONTROLLED
CONGRESS HAS NEVER BEEN
SHY ABOUT EXERCISING ITS
OVERSIGHT
RESPONSIBILITIES, ^{AND}
THERE'S ^{IS} NO REASON TO MAKE
AN EXCEPTION FOR
WHITEWATER.**

**IF CONGRESS FAILS TO
EXERCISE ITS OVERSIGHT**

X000513

**RESPONSIBILITIES, IF WE DON'T^(NOT)
HOLD HEARINGS, THEN WE
EXPOSE OURSELVES TO THE
CHARGE OF BEING WILLING
ACCOMPLICES TO WHATEVER
WRONGDOING MAY HAVE
OCCURRED.**

**MR. PRESIDENT, I ASK
UNANIMOUS CONSENT THAT**

X000514

**EDITORIALS FROM YESTERDAY'S
NEW YORK TIMES AND
WASHINGTON POST BE
~~RE~~PRINTED IN THE RECORD ⁽¹⁾
~~IMMEDIATELY AFTER MY~~
~~REMARKS.~~ I ALSO ASK
UNANIMOUS CONSENT THAT THE
MEMORANDUM FROM THE
CONGRESSIONAL RESEARCH
SERVICE BE ~~RE~~PRINTED IN THE**

622

RECORD AS WELL.

X000515

###

15

1582

X000516

Mr. DOLE. Mr. President, I know there is talk about,

"Well, we can't do this because of Iran-Contra," but there were

a lot of speeches made on this floor in 1991, one by now Vice

President, then Senator, Al Gore, who said, with reference to

the 1980 October Surprise:

— "The evidence which has thus far trickled into the public domain is still fragmentary. Much of it is circumstantial, but it is compelling. If the allegations are not true, the country needs to know they are not true. If they are true, the country needs to know that as well. ...

— "I believe the air needs to be cleared. So, I am today calling for a formal investigation of these charges and allegations without prejudging what that investigation might find, but believing deeply that it needs to take place in order to establish the truth or falsehood of the allegations that have been made."

1592

X000517

That was all about a bunch of rumors and some guy named Gary Slick who came down here and convinced Democrats that we ought to have a hearing on whether or not President Reagan was engaged in some kind of conspiracy back in 1980 with reference to hostages.

We had hearings on that. Nobody said, "Oh, we can't do that because of Iran Contra," or whatever, because of what Mr. Fiske or Mr. Walsh may have said.

So, we can all be quoted. I notice that the Democrat National Committee said in 1973, I believe, that I wanted to stop the Watergate hearing. Well, I dug out that speech. We were not trying to stop the hearings. In fact, I think we were suggesting that they were probably a good thing to have. We were just trying to stop the live coverage so we could do other

1602

X000518

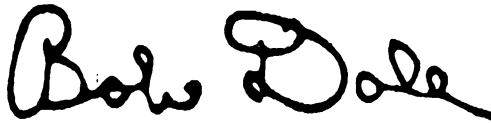
trying to keep out the press. We just thought live coverage day

after day after day was not necessary.

So we think a case will be made, and I hope that we could
have some response soon.

I reserve the remainder of my time.

X000519



NEWS

U.S. SENATOR FOR KANSAS

FROM:

SENATE REPUBLICAN LEADER



FOR IMMEDIATE RELEASE
Thursday, March 3, 1994

Contact: Clarkson Hino
(202) 224-5358

WHITEWATER-MADISON UPDATE

Dangerous Pattern Emerging in Administration's Handling of
Madison-Whitewater Affair: Don't Mix Politics & Law Enforcement

According to Webster's Dictionary, the word "independent" means, and I quote: "Not subject to control by others...Not looking to others for one's opinions or for guidance in conduct."

I cite this definition because the last time I checked, the Resolution Trust Corporation is supposed to be an independent agency...Underscore the word "independent." But, in light of recent press accounts, it appears that I may have to do some more research, or Webster's may have to revise its definition.

Last week, we learned that Roger Altman, the acting C.E.O. of the RTC and the No. 2 political appointee at the Treasury Department, met with White House political officials, allegedly to give them a "head's up" on the RTC's civil investigation into Madison Guaranty. Realizing his blunder, Mr. Altman subsequently--and very belatedly--recused himself from the Madison matter.

More Questionable Meetings

Today, we read that top officials at the Treasury Department, after the supposedly independent RTC asked the Justice Department last year to investigate possible criminal activity involving Madison, met twice with members of the White House Whitewater Brain-Trust--Bernard Nussbaum, Bruce Lindsey, and Mark Gearan. According to news accounts, the Treasury officials gave the White House staffers a report on the "status" of the RTC's investigations and informed them that President and Mrs. Clinton were "named" in the RTC referral, though not accused of any wrongdoing.

Needless to say, the average American citizen who was either named in an RTC criminal referral or the subject of an RTC civil investigation would never have received such high-level cooperation from the very people charged with conducting the investigations.

Dangerous Pattern

A dangerous pattern seems to be emerging.

During last year's Travelgate fiasco, overly-eager White House staffers raised eyebrows by pressuring a top FBI official to attend a White House "political strategy" session, allegedly to coordinate a press response to the burgeoning number of media inquiries. Unfortunately, the supposedly independent FBI went along with this charade, changing an FBI press release to suit White House political needs.

Today, White House staffers are adopting a similar ploy.

saying there was nothing wrong with the Treasury-White House meetings: we are told that they were simply sessions to "coordinate responses" to press inquiries about the RTC's investigations into Madison.

Questions of Judgment & Cover-Up

X000520

Now, that brings me to another word--"judgment."

In light of the recent news reports, it's becoming increasingly clear that good judgment is in short supply among White House and top Administration officials. No doubt about it, you're asking for big, big trouble, and showing some stunningly bad judgment, when you start mixing politics with law enforcement. It's only fair to excuse a misstep or two--we all make mistakes. But when bad judgment becomes the rule, rather than the exception--and when those involved don't admit their own mistakes--then it may be time for a little White House house-cleaning.

(more)

X000521

And finally, a third word comes to mind--"cover-up." If the White House has nothing to hide about Whitewater, then why all the meetings? Why all the behind-the-scenes machinations? Why "negotiate" a subpoena to shield Whitewater documents from public scrutiny? And why put yourself in the dangerous position of being charged with compromising what are supposed to be "independent" civil and criminal investigations? Cover-up is a tough word, but the consequences of a cover-up can be even tougher.

Congress Has Responsibility - Can't Be Willing Accomplices

I don't know what to make of the recently-disclosed White House-RTC-Treasury shenanigans, but I do know that Congress has an obligation to ensure that supposedly independent law enforcement agencies are just that--independent. For Congress to punt on its oversight responsibilities is a disservice to the American people...and exposes Congress to the charge that we are willing accomplices to whatever Whitewater wrongdoing may have occurred.

FDIC Nomination on Hold Until Thorough Hearing of RTC & Madison

That's why Senator D'Amato, myself, and 41 other Senate Republicans yesterday wrote to the distinguished Majority Leader informing him that we will object to proceeding to the nomination of Ricki Tigert, President Clinton's nominee to chair the supposedly independent FDIC, unless the Senate Banking Committee has an opportunity to thoroughly examine the RTC's handling of its civil investigation into Madison. Today's shocking revelations only serve to underscore the need for such an examination...And, more broadly, for hearings on the entire Madison/Whitewater affair.

###

Remarks delivered on Senate floor, approximately 12:30 PM ET.



FLOOR STATEMENT
 SENATOR CHRISTOPHER S. BOND
 MARCH 3, 1994

Mr. President, I want to take a few minutes of the Senate's time to outline where we are in terms of the on-going disclosures of the White House and the Resolution Trust Corporation regarding Madison Guaranty.

As my colleagues know, Madison Guaranty was a Little Rock savings and loan which was owned by James McDougal -- the business partner of the Clintons in the Whitewater real estate deal.

Madison Guaranty was a classic S&L story of insider dealing, reckless loan policies and ultimate failure with the U.S. taxpayers picking up the tab. But in this case there was a small twist -- many of its benefactors were in politics and Government.

The tangled web of Madison and Jim McDougal has led to two criminal referrals by the RTC, an on-going civil action investigation by the RTC, a conflict of interest case for the Rose Law Firm, and a trial which is about to start concerning David Hale.

It has also led to the appointment by the Attorney General of Special Prosecutor Robert Fiske who is looking at all these issues to see what happened, who was involved, who benefitted, and who was there to cover up.

In the middle of all this action, Republicans in the House and Senate have been attempting to get the facts -- not to interfere, impede or delay

X000523

the investigation -- but in order to fulfill our obligation of oversight over those who are now running the Government.

This means asking questions of the RTC, the FDIC, the OCC and others about whether they are receiving outside pressure, is the White House staff attempting to get information that these so-called "independent" agencies would never give to anyone else, is this information being provided? If so, by whom? And to whom?

And as my colleagues know, it was in the course of asking these types of questions -- questions some of my colleagues don't believe should even be asked -- that we first discovered from the acting head of the RTC Roger Altman that he had briefed White House staff on the status of the RTC investigation.

Now for those of you who are saying -- stay out of the way, the Special Counsel is on the case -- perhaps you would be interested to know that this meeting took place 2 weeks after Mr Flake was named.

Mr President, let me tell the Senate about this episode, which should go a long way toward explaining why the Republicans signed and sent a letter to the Majority Leader stating we want a hearing on this.

When Mr Altman was before the banking Committee on Feb. 24, I asked him a series of questions about how he, and the RTC had been handling the case. Given the sensitivity of the case -- with the President and the First Lady been named in the criminal referral by the RTC regional

X000524

office -- I asked Mr Altman:

"Are there special measures taken in the resolution of a failed thrift When you find it to be affiliated with a high-profile individual? Someone in government for example?"

He replied:

"The procedures, Senator which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning."

He went on to say:

"When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all the relevant RTC personnel to handle criminal judgements in the same exact fashion that they would handle any other PLS matter with no deviation whatsoever."

Mr President, I should note for the record that Mr Altman answered these questions before he had divulged the meeting at the White House in February. I should also point out that in the course of this discussion with me when he was assuring me and the Senate that the RTC was treating the Madison case in an "identical" manner, and that the staff should treat the criminal referral "in the exact same fashion" with "no deviation whatsoever" -- that Mr. Altman didn't see fit to tell us about how they had not followed the exact same or identical procedures.

But it only gets worse.

X000525

Later in the hearing I asked Mr. Altman:

"When did you become aware of the RTC recommendation that further criminal prosecution be taken against Madison?"

He replied:

"Last fall. I was advised that a question of referral to the Justice Department was under consideration at the RTC. And as other members of the RTC will attest, I said that normal procedures with no deviations whatsoever should be pursued, *including chain of command*, in terms of reaching that conclusion."

I then asked him:

"Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clinton's name should be in the new expanded referral?"

Altman replied:

"No. I was simply informed that this issue was on the table, and my reaction was -- and I only had one conversation about it -- the normal procedure should be followed. That is the way we are going to handle it from beginning to end."

I then asked: "How was the White House notified of the referral?"

Altman replied:

"They were not notified by the RTC, to the best of my knowledge."

X000526

I followed up with:

"Nobody in your agency, to your knowledge advised the White House staff that this was going to be a major -- this could be a major source of concern?"

Altman replied:

"Not to my knowledge".

Now Mr. President, what we have just heard is the repeated assurances that the RTC did nothing different in the Madison case from any other case. That the head of the RTC had instructed his people, from the moment he was aware of Madison's new criminal referral to treat the case no differently than all the others.

But we now know this is simply not true. Not only did the head of the RTC brief the White House staff, and it bears repeating that by briefing Bernie Nussbaum and Maggie Williams. Mr. Altman was briefing the very people who stand accused of taking Whitewater/Madison files out of the late Mr. Foeter's office, and then attempting to conceal that they existed -- and that these files are certainly one's that the RTC's own investigators would want to review.

But now we find out that at least two additional meetings were held, both late last year as the RTC was putting together their second criminal referral. According to the Washington Post -- and this was confirmed to me by Mr. Altman in a conversation last evening -- Jean

X000527

Hanson, the General Counsel of the Treasury briefed Bernie Nussbaum in late September, and told him that the Clinton's would be named in the criminal referral.

The second meeting occurred in October, and again included Jean Hanson, plus two other Treasury political appointees, and was held in Nussbaum's office. Also in attendance according to the Post were the White House Communications Director Mark Gearan, and the designated Whitewater spokesman for the White House, Bruce Lindsay.

Before the meeting, Hanson was briefed by RTC senior V.P. Bill Roelle.

Mr President -- something is very wrong.

Either Mr Altman deliberately misled the Committee -- which I don't believe he did -- or the political appointees beneath him deliberately did not brief him, did not correct the record, nor tell the Secretary of Treasury what his General Consul was up to, so he could correct the record when he was before the Senate Banking committee just 4 days later.

Mr. Altman has recused himself -- better late than never. And the President's chief of staff Mack McLarty has now laid down the law -- no more meetings, again better late than never, but this is not something that should have to be explicitly stated.

But has Ms Hanson recused herself?

X000528

After all, she has had three meetings -- and she is the General counsel, the chief lawyer of the Department of Treasury?

Did she suggest to Altman that a February briefing was in order? Did she sent up other meetings that have not yet come to light? Why was she involved in the first place. Is it true she has been acting as the general counsel of the RTC as there is no one currently in that position?

We know have 5 examples of what it takes to get the Administration to see conflicts of interest -- they have to be caught in the act.

Mr President, for those of us in Congress, who work with the Administration on a daily basis -- trust is a very important commodity. Unfortunately, it is easy to lose and hard to regain, and the Administration handling of Whitewater/ Madison has seriously eroded the trust of many of us in this body.

That is why I support the Minority leader's efforts to get to the bottom of all this.

Bob Dole

U.S. SENATOR FOR KANSAS
SENATE REPUBLICAN LEADER

X000529

NEWS
FROM:FOR IMMEDIATE RELEASE
Thursday, March 3, 1994Contact: Clarkson Hino
(302) 224-5350

WHITEWATER-MADISON UPDATE

Dangerous Pattern Emerging in Administration's Handling of
Madison-Whitewater Affair: Don't Mix Politics & Law Enforcement

According to Webster's Dictionary, the word "independent" means, and I quote: "Not subject to control by others...Not looking to others for one's opinions or for guidance in conduct."

I cite this definition because the last time I checked, the Resolution Trust Corporation is supposed to be an independent agency...Understand the word "independent." But, in light of recent press accounts, it appears that I may have to do some more research, or Webster's may have to revise its definition.

Last week, we learned that Roger Altman, the acting C.E.O. of the RTC and the No. 2 political appointee at the Treasury Department, met with White House political officials, allegedly to give them a "head's up" on the RTC's civil investigation into Madison Guaranty. Realizing his blunder, Mr. Altman subsequently--and very belatedly--recused himself from the Madison matter.

More Questionable Meetings

Today, we read that top officials at the Treasury Department, after the supposedly independent RTC asked the Justice Department last year to investigate possible criminal activity involving Madison, met twice with members of the White House Whitewater Brain-Trust--Bernard Nussbaum, Bruce Lindsey, and Mark Gureman. According to news accounts, the Treasury officials gave the White House staffers a report on the "status" of the RTC's investigations and informed them that President and Mrs. Clinton were "named" in the RTC referral, though not accused of any wrongdoing.

Needless to say, the average American citizen who was either named in an RTC criminal referral or the subject of an RTC civil investigation would never have received such high-level cooperation from the very people charged with conducting the investigations.

Dangerous Pattern

A dangerous pattern seems to be emerging.

During last year's Travelgate fiasco, overly-eager White House staffers raised eyebrows by pressuring a top FBI official to attend a White House "political strategy" session, allegedly to coordinate a press response to the burgeoning number of media inquiries. Unfortunately, the supposedly independent FBI went along with this charade, changing an FBI press release to suit White House political needs.

Today, White House staffers are adopting a similar ploy, saying there was nothing wrong with the Treasury-White House meetings: we are told that they were simply sessions to "coordinate responses" to press inquiries about the RTC's investigations into Madison.

Questioning of Judgment & Cover-Up

Now, that brings me to another word--"judgment."

In light of the recent news reports, it's becoming increasingly clear that good judgment is in short supply among White House and top Administration officials. No doubt about it, you're asking for big, big trouble, and showing some stunningly bad judgment, when you start mixing politics with law enforcement. It's only fair to excuse a misstep or two--we all make mistakes. But when bad judgment becomes the rule, rather than the exception--and when those involved don't admit their own mistakes--then it may be time for a little White House house-cleaning.

(more)

TALKING POINTS ON CONGRESSIONAL HEARINGS ON RTC

X000530

2-22-94

BACKGROUND:

Congressional hearings on the Resolution Trust Corporation, a Treasury Department unit and the government's chief savings and loan clean-up agency, are scheduled to begin this week. The Wall St. Journal reported today that this will give Republicans their first chance to grill administration officials, including Secretary Bentsen and Roger Altman, over legal issues related to RTC handling of Madison Guaranty.

Altman is interim RTC chief. The Senate Banking Committee has set a Thursday hearing to receive the Thrift Depositor Protection Oversight Board, which monitors the RTC. Bentsen is chairman of the oversight board, Altman is a member. The Journal reports that Altman is expected to get special GOP attention on whether, as a former college classmate of the President, he should recuse himself from matters involving Madison. To date he has not done so.

Per Howard Schloss, Department of the Treasury

AS BACKGROUND:

- They would like us to say as little as possible about this. Bentsen/Altman's testimony is still being written. Altman has tried to emphasize that he has had no contact with the White House over this matter. Therefore, we should not be in the position of discussing his actions in regard to Madison.

MAJOR TALKING POINTS:

- As Mr. Altman is interim CEO of an independent agency, it is not appropriate for the President to tell Mr. Altman whether or not to recuse himself. Mr. Altman has made statements regarding his position in the past, which I believe stand for themselves. For further comment regarding his role in this matter, I would refer you to Mr. Altman.
- Q: Is the White House worried about the hearings?
A: Not at all.

Jean Hanson Appointments for January 1994

<u>Date</u>	<u>Location</u>	<u>Time</u>	<u>To See</u>	<u>By Whom</u>
-------------	-----------------	-------------	---------------	----------------

Jean Hanson Appointments for February 1994

<u>Date</u>	<u>Location</u>	<u>Time</u>	<u>To See</u>	<u>By Whom</u>
02/02/94	West Wing	--	McLarty	Stanzione
02/02/94	West Wing	--	Williams	Lieberman

For the month of February the time has not yet been determined by the United States Secret Service. (the files are in the process of being archived)

Q

REDACTED

Possible Questions on Status of S&L Probe
March 3, 1994

X000532

1. Did the information Jean Hanson give to Bernie Nussbaum help the White House to formulate a strategy for the ongoing Whitewater investigation?
2. Other than the meetings reported, have there been any other meetings with White House officials, Treasury officials and RTC officials on this matter?
3. When did the President know about the Hanson/Nussbaum encounter?
4. When did the President know about the late October meeting with Nussbaum, Gearan, Treasury officials, and Hanson?
5. When did the First Lady know about the meetings?
6. Who asked for the second meeting?
7. Did participants in the second meeting disseminate the information to the President? First Lady?
10. Does the President think this matter should be referred to the special counsel?
11. Does the White House Communications office talk regularly with Treasury public affairs about the ongoing investigation?
12. Roger Altman said last week he showed "bad judgement" in conducting the briefing with Hanson. Does the White House think they showed bad judgement in meeting with Hanson and Treasury officials about the ongoing investigation?
13. Does the White House think Treasury or White House officials should comply with Senator D'Amato's request for a special hearing by the Banking Committee?
14. What does McLarty's memo say? When will it be released to staff? What staff is affected by the memo?
15. Was the Hanson/Nussbaum meeting inappropriate? Was the Hanson, DeVore, Gearan, et al, meeting inappropriate? Does the White House think the Roger Altman meeting was inappropriate? If not, then why is McLarty sending a memo that says contacts between Treasury and White House officials be stopped?
16. Does the president still have confidence in Bernie Nussbaum counsel?
17. Who is researching the rules? What have you found out about the rules?

REDACTED

**Possible Questions Regarding Wash Post/Web Hubbell Article
March 2, 1994**

X000533


18. Did Roger Altman talk about the investigation when he informally briefed White House staff on the statue of limitations/Madison Guaranty.

Personal and Confidential

X000534

MEMORANDUM

To: File

From: Bruce R. Lindsey 

Date: October 20, 1993

Re: Whitewater Development Corporation

On Thursday, October 14, 1993, Bernie Nussbaum, Neil Eggleston, and Cliff Sloan of the White House Counsel's office, Mark Gearan and I met with Jack DeVore, Josh Steiner, and Jean Hanson of the Treasury Department. The purpose of the meeting was to discuss a telephone call that Jack had received the day before from Jeff Gerth of *The New York Times*.

Gerth informed DeVore that he is aware that a number of criminal referrals involving Jim McDougal and Madison Guaranty had been forwarded from RTC's Kansas City field office to its Washington office. (Apparently, the "normal" procedure is for a criminal referral to be sent from a field office directly to the appropriate U.S. Attorney's office. DeVore did not know why these referrals came to Washington instead.) Gerth stated that, to his knowledge, President Clinton was not a target of the referrals, although Governor Jim Guy Tucker might be.

One of the referrals, however, involved four cashiers checks -- each for \$3,000, two made payable to the Clinton for Governor Campaign and two made payable to Bill Clinton. The checks were dated April 4 or 5, 1985. All four checks were deposited in the Bank of Cherry Valley. Gerth wanted DeVore to find out who had endorsed the checks. (A check of our campaign records turned up three cashiers checks for \$3,000 each from J. W. Fulbright, Ken Peacock, and Dean Landrum, and a personal check for \$3,000 from Jim McDougal, signed by Susan McDougal.)

X000535

DeVore confirmed with the RTC that the referrals had been received in the Washington office, but had already been forwarded on to the Little Rock U.S. Attorney's office. DeVore wanted to make it clear to Gerth that the referrals had been sent to Little Rock before his call. DeVore's inclination was also to confirm to Gerth the fact of the referrals. He indicated that such confirmation was normal procedure. We suggested that instead of confirming the referrals, DeVore should indicate "off the record" that whatever had been received in Washington had been forwarded to the U.S. Attorney's office prior to Gerth's call.

The RTC believes that the funds for the cashiers checks came from a loan from Madision Guaranty to a Republican, but supposedly the Republican was unaware that some of the loan funds had been diverted.

cc: Maggie Williams
Bill Kennedy
Mark Gearan

REDACTED

X000536

BRUCE LINDSEY CALL LIST
OCTOBER 13, 1993
Page 12

TIME	RESOLUTION	NAME/AGENCY	PHONE NUMBER(S)	MESSAGE
6:58 pm		Bernie Nussbaum	x2632	Wants to talk to you about another matter; also wants to know if you are free for a 3:30 pm meeting tomorrow.

X000538

Personal and Confidential**MEMORANDUM**

To: File

From: Bruce R. Lindsey

Date: October 20, 1993

Re: Whitewater Development Corporation

On Thursday, October 14, 1993, Bernie Nussbaum, Neil Eggleston, and Cliff Sloan of the White House Counsel's office, Mark Gearan and I met with Jack DeVore, Josh Steiner, and Jean Hanson of the Treasury Department. The purpose of the meeting was to discuss a telephone call that Jack had received the day before from Jeff Gerth of *The New York Times*.

Gerth informed DeVore that he is aware that a number of criminal referrals involving Jim McDougal and Madison Guaranty had been forwarded from RTC's Kansas City field office to its Washington office. (Apparently, the "normal" procedure is for a criminal referral to be sent from a field office directly to the appropriate U.S. Attorney's office. DeVore did not know why these referrals came to Washington instead.) Gerth stated that, to his knowledge, President Clinton was not a target of the referrals, although Governor Jim Guy Tucker might be.

One of the referrals, however, involved four cashiers checks – each for \$3,000, two made payable to the Clinton for Governor Campaign and two made payable to Bill Clinton. The checks were dated April 4 or 5, 1985. All four checks were deposited in the Bank of Cherry Valley. Gerth wanted DeVore to find out who had endorsed the checks. (A check of our campaign records turned up three cashiers checks for \$3,000 each from J. W. Fulbright, Ken Peacock, and Dean Landrum, and a personal check for \$3,000 from Jim

X000539

McDougal, signed by Susan McDougal.)

DeVore confirmed with the RTC that the referrals had been received in the Washington office, but had already been forwarded on to the Little Rock U.S. Attorney's office. DeVore wanted to make it clear to Gerth that the referrals had been sent to Little Rock before his call. DeVore's inclination was also to confirm to Gerth the fact of the referrals. He indicated that such confirmation was normal procedure. We suggested that instead of confirming the referrals, DeVore should indicate "off the record" that whatever had been received in Washington had been forwarded to the U.S. Attorney's office prior to Gerth's call.

The RTC believes that the funds for the cashiers checks came from a loan from Madison Guaranty to a Republican, but supposedly the Republican was unaware that some of the loan funds had been diverted.

cc: Maggie Williams
Bill Kennedy
Mark Gearan

REDACTED

**THE WHITE HOUSE
WASHINGTON**

X000540

Ww

February 28, 1994

MEMORANDUM FOR FILE

**FROM: JOHN D. PODESTA
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY**

**W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT**

**RE: WHITEWATER--SENATE BANKING COMMITTEE HEARING AND
OTHER RECENT ACTIVITY**

I. SENATE BANKING COMMITTEE HEARING

648

X000541

REDACTED

REDACTED

X000542

W.N.E.

REDACTED

X000543

4. Senator Gramm.

Senator Gramm was initially pretty mild, merely urging the President to make all information public so that the country could move on to other issues.

It was during Mr. Gramm's questioning that Mr. Altman testified about his meeting at the White House approximately three weeks before the hearing. Mr. Altman stated that the meeting was procedural only, relating to the statute of limitations issue. Mr. Altman stated that he had requested the meeting because he had been answering questions from members of Congress about the procedural issues, and thought it only appropriate to provide the same information to the White House.

X000544

REDACTED

CONFIDENTIAL
(Draft 1/25 (wne))

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

X000545

REDACTED

X000546

REDACTED**IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS**

Mr. Foster committed suicide in July 1993. No files were removed from his office prior to an examination of those files by White House Counsel Bernard Nussbaum in the presence of law enforcement officers. In the presence of those officials, Mr. Nussbaum reviewed and noted the files in Mr. Foster's office, including a file related to Whitewater. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including Whitewater, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family. The few Whitewater files that were in Mr. Foster's office at the time of his death were properly sent to the Clintons' personal law firm for safekeeping and storage.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records to the Department. As would be entirely routine and to protect the integrity of the investigation, the President's lawyer requested a subpoena to cover the documents. Delivery of the documents to the Department has now been completed. Those documents will be reviewed by the grand jury investigating Madison in Little Rock.

654

X000547

CONFIDENTIAL (2/8/94)

REDACTED

SYNOPSIS OF WHITEWATER/MADISON GUARANTY MATTER

X000548

REDACTED

SECRET

IV. THE FOSTER SUICIDE AND SUBSEQUENT EVENTS

Mr. Foster committed suicide in July 1993. No files were removed from his office prior to an examination of those files by White House Counsel Bernard Nussbaum in the presence of law enforcement officers. In the presence of those officials, Mr. Nussbaum reviewed and noted the files in Mr. Foster's office. The files were ultimately separated into three categories: those relating to White House legal matters, which were assigned out to other counsel in the office; those relating to the Clintons' personal legal matters, including a Whitewater file, which were turned over to the Clintons' personal attorney; and those relating to Mr. Foster personally, which were turned over to counsel for the Foster family.

The few Whitewater file that was in Mr. Foster's office at the time of his death was properly sent to the Clintons' personal law firm. It was subsequently provided voluntarily by the Clintons to the Department of Justice. Moreover, the Park Police reviewed Mr. Foster's personal documents at the office of the Fosters' attorney within several days after July 22.

V. THE INVESTIGATION

Shortly before Christmas, press reports erroneously suggested that files had been improperly removed from Mr. Foster's office before the review described above. To avoid any question about the Clintons' desire to cooperate in the Department of Justice investigation into Madison Guaranty, the President ordered his attorney to turn over all relevant records

657

REDACTED

X000550

to the Department. Delivery of the documents to the Department
has now been completed.

REDACTED

**THE WHITE HOUSE
WASHINGTON**

X000551

February 28, 1994

MEMORANDUM FOR FILE

**FROM: JOHN D. PODESTA
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY**

**W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT**

**RE: WHITEWATER--SENATE BANKING COMMITTEE HEARING AND
OTHER RECENT ACTIVITY**

REDACTED

X000552

660

REDACTED

X000553

W.N.E.

REDACTED

X000554

4. Senator Gramm.

Senator Gramm was initially pretty mild, merely urging the President to made all information public so that the country could move on to other issues.

It was during Mr. Gramm's questioning that Mr. Altman testified about his meeting at the White House approximately three weeks before the hearing. Mr. Altman stated that the meeting was procedural only, relating to the statute of limitations issue. Mr. Altman stated that he had requested the meeting because he had been answering questions from members of Congress about the procedural issues, and thought it only appropriate to provide the same information to the White House.

[illegible]

7129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0050

March 1, 1994

JAMES A. LEACH, KOWA
JACK WELCH, ILL. INDIAN
MARION BERKMAN, NEW JERSEY
BOB DUBOYER, INDIANA
TIMOTHY J. DUNN, VIRGINIA
TODD L. FINE, OHIO
ALFRED A. HANDELSMAN, CALIFORNIA
RICHARD W. HALLER, ILLINOIS
JOE HUSTLE, KOWA
JAMES THOMAS, WYOMING
SAM JOHNSON, TEXAS
DOROTHY FOLEY, OHIO
JOHN LINCOLN, GEORGIA
JOHN M. MCGRAW, INDIANA
JOE LADD, NEW YORK
BOB BRANN, MINNESOTA
SPENCER BUCHHEIT, IN ALABAMA
MARC DUBOYER, CALIFORNIA
MURRAY, CALIF. DELAWARE
NITTO OREN, NEW YORK
BERNARD BARBER, VERMONT

**Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500**

**Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917**

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kuminaki
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee to the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000579

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels; or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000580

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000581

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,


James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

X000582



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

Roger C. Altman

...X000583



RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

FXED
3 2 94

March 2, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

I testified before your Committee last Thursday in connection with the semi-annual Oversight hearings on the RTC. There was a discussion, as you remember, of a meeting which I had with representatives of the White House. As I indicated, no non-public information was provided at that meeting on any aspect of the Madison Guaranty matter.

When Senator Bond asked me at that hearing whether any other communications had taken place between the RTC and the White House, my response was "not to my knowledge". I still have no knowledge that any such discussions occurred.

But, I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries.

I would appreciate the opportunity to amend the record accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Altman", written over a horizontal line.

Roger C. Altman

X000584

March 7, 1994

MEMORANDUM FOR THE OFFICE OF THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds both to Congressman Leach's March 1, 1994 letter and to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked, and Congressman Leach has inquired, whether White House employees violated any ethics laws or administrative regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based upon the following facts, which have been gained through public materials (e.g., newspapers, March 3, 1994 Letter from Roger Altman to the Honorable Donald W. Riegle, Jr.). We have not interviewed anyone regarding these contacts nor sought to ascertain the accuracy of the facts in light of recent events.

The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact was brief.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the

THE WHITE HOUSE

X000585

White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting was relatively short.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (*i.e.*, the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also was relatively short.

The analysis contained in this memorandum is based on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. *Cf.* 3 U.S.C. §§ 101 - 114. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

X000586

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

X000587

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

1. Use of Public Office for Employee's Personal Gain

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

2. Use of Public Office for Private Gain of Another

Sections 2635.101(b)(7) and 702 also prohibit federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. To interpret these provisions, we start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for the private gain. OGE states that "issues related to an individual

¹ In his letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, would be prohibited by this provision.

X000588

employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial, or any other benefit, of another.

In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President. Therefore, the only financial or other benefits that could arise from the employees' actions was to the Clintons.

The actions taken by White House officials in these matters, namely, discussing appropriate responses to inquiries from the press or Congress, were part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not to benefit personally, financially or otherwise, the Clintons. Because the discussions during the White House employees' contacts with Treasury officials went to responding to actual or anticipated media inquiries and in one contact, the procedural posture of the matter, rather than to means or attempts to affect actions to be taken regarding the referral, White House officials did not use public office for private gain of the Clintons.

3. Use of Public Office to Coerce a Benefit

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- to address actual or anticipated public inquiries that the White House would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the

X000589

nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating those organizations preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the year prior to government service, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

X000590

person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

The matter involved in the contacts with Treasury officials does not involve parties, or representatives of parties, with which any of the White House officials has a "covered relationship." See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the contacts would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality.⁴ The White House officials were addressing the issues raised by Treasury employees in the contacts as official matters, in their official capacity, as opposed to as matters of personal interest to the Clintons.

C. Disclosure of Nonpublic Information

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official ("DAEO"), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

⁴ Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than in the context of covered relationships. There are no examples in the regulations and no decisions from OGE interpreting the more general standard matter.

X000591

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

The circumstances of the contacts do not suggest that the information disseminated was, or is, nonpublic. White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information has or had "not actually been disseminated to the general public and is [or was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

Because the contacts were made to enable White House and Treasury officials to respond to press inquiries, there appears to have been no reason for White House officials to know that the information was, if it was, nonpublic and was not to be disclosed. In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed. Accordingly, White House officials would not have a basis for thinking that the information provided by Treasury officials was, if indeed it is, nonpublic information and would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁵

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in nonofficial activities that personally benefited the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when they met with Treasury

⁵ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public." 5 C.F.R. § 2635.703(b).

X000612

arising as a result of actions taken by another agency -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest, other than in the proper discharge of his official duties. 18 U.S.C. § 205(a).

This statute prohibits representational actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances in their official capacities on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were made in the course of exercising their official duties on behalf of the White House and were not made as representations of anyone other than the White House.

IV. Conclusion

This memorandum is based solely on the facts that are stated herein and does not analyze the propriety of actions undertaken

X000593

This memorandum is based solely on the facts that are stated herein and does not analyze the propriety of actions undertaken by either Treasury Department or RTC officials, who may be subject to additional statutes, regulations, or guidance regarding their conduct. With that in mind and based upon the facts outlined above, it is our conclusion that White House officials who participated in the meetings on September 29, October 14, and February 2 did not violate the criminal conflict of interest statutes or the government-wide standards of conduct regulations.

THE WHITE HOUSE

X000624

WASHINGTON

March 7, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds both to Congressman Leach's March 1, 1994 letter and to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked, and Congressman Leach has inquired, whether White House employees violated any ethics laws or administrative regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based upon the following facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact was brief.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to

X000625

organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the year prior to government service, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

DRAFT

March 5, 1994

DRAFT

X000626

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds both to Congressman Leach's March 1, 1994 letter and to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked, and Congressman Leach has inquired, whether White House employees violated any ethics laws or administrative regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based solely upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact was brief.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of

X000627

the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting was relatively short.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (*i.e.*, the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also was relatively short.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. *Cf.* 3 U.S.C. § 101 *et. seq.* Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the

X000628

White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R.

X000629

§§ 2635.101(b)(7) and 702.

1. Use of Public Office for Employee's Personal Gain

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

2. Use of Public Office for Private Gain of Another

Sections 2635.101(b)(7) and 702 also prohibit federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. To interpret these provisions, we start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for the private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of §

¹ In his letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, would be prohibited by this provision.

X000630

2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial, or any other benefit, of another.

In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President. Therefore, the only financial or other benefits that could arise from the employees' actions was to the Clintons.

The actions taken by White House officials in these matters, namely, discussing appropriate responses to inquiries from the press or Congress, were part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not to benefit personally, financially or otherwise, the Clintons. Because the discussions during the White House employees' contacts with Treasury officials went to responding to actual or anticipated media inquiries and in one contact, the procedural posture of the matter, rather than to means or attempts to affect actions to be taken regarding the referral, White House officials did not use public office for private gain of the Clintons.

3. Use of Public Office to Coerce a Benefit

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- to address actual or anticipated public inquiries that the White House would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the

X000631

nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor

X000632

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

The matter involved in the contacts with Treasury officials does not involve parties, or representatives of parties, with which any of the White House officials have a "covered relationship." See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality.⁴ The White House officials were

or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official ("DAEO"), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

⁴ Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than in the context of covered relationships. There are no

X000633

addressing the issues raised by Treasury employees in the contacts as official matters, in their official capacity, as opposed to as matters of personal interest to the Clintons. That the information might potentially have relevance to the Clintons for both personal and official purposes does not alter the official purpose for which employees engaged in the contacts.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

The circumstances of the contacts do not suggest that the information disseminated was, or is nonpublic. White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information has "not actually been disseminated to the general public and is not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

Because the contacts were made to enable White House and Treasury officials to respond to press inquiries, there appears to have been no reason to believe that the information was nonpublic and was not to be disclosed. In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed. Accordingly, White House officials would not have a basis for thinking that the information provided by Treasury officials was, if indeed it is, nonpublic information and would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁵

examples in the regulations and no decisions from OGE interpreting the more general standard matter.

⁵ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public." 5 C.F.R. § 2635.703(b).

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in nonofficial activities that personally benefited the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when they met with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties -- discussing the official response of the White House to inquiries arising as a result of actions taken by another agency -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest, other than in the proper discharge of his official duties. 18 U.S.C. § 205(a).

X000646

This statute prohibits representational actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances in their official capacities on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were made in the course of exercising their official duties on behalf of the White House and were not made as representations of anyone other than the White House.

IV. Conclusion

This memorandum is based solely on the facts that are stated herein and does not analyze the propriety of actions undertaken by either Treasury Department or RTC officials, who may be subject to additional statutes, regulations, or guidance regarding their conduct. With that in mind and based upon the facts outlined above, it is our conclusion that White House officials who participated in the meetings on September 29, October 14, and February 2 did not violate the criminal conflict of interest statutes or the government-wide standards of conduct regulations.

X000647

DRAFT

March 5, 1994

DRAFT

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based solely upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting lasted 30 minutes.

X000637

the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting was relatively short.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (i.e., the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also was relatively short.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. Cf. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the

XJ00649

also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

X 000650

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000651

the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going

X000652

to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor

X000653

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

2 ~~None of the facts on which we base this memorandum indicate that White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is a party or represents a party. [The matter does not involve parties, or representatives of parties, with which any of the White House officials have a "covered relationship." See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.~~

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000654

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

These circumstances of the contacts do not suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).⁴ In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed; additionally, White House officials would not have a basis for thinking that the information provided by Treasury officials was nonpublic information. White House officials would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁴

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing

⁴ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public."

X000655

subordinates to engage in nonofficial activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties -- discussing the official response of the White House to inquiries arising as a result of actions taken by the RTC -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

but which are the
influence of
official
person
in their official
capacities

X000656

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

*designed to
influence
government
action.*

X000657

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (i.e., the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also lasted approximately 30 minutes.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. Cf. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer

X000658

also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

X000659

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000660

the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going

X000661

to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at a fundraiser), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer any benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The Standards of Conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor

X000662

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee considers, including the nature of the relationship between the relevant parties, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is a party or represents a party. [The matter does not involve parties, or representatives of parties, with which any of the White House officials have a "covered relationship."] See note 2. Therefore, it would not have been necessary for any of the White House officials to invoke the authorization procedures outlined in section 502.

However, a more general restriction in the Standards of Conduct requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000663

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

There circumstances of the contacts do not suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury employees whose actions appear, and at the time appeared, to have been taken in their official capacity. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3). In particular, with regard to the February 2, 1994, contact, Mr. Altman stated that the information about which he briefed White House officials was provided to Congress and members of the press. Mr. Altman's statement suggests that the information was authorized to be disclosed; additionally, White House officials would not have a basis for thinking that the information provided by Treasury officials was nonpublic information. White House officials would therefore not have been in a position to "knowingly" disclose nonpublic information. *Id.* at § 2635.703(b).⁴

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing

⁴ Under the Standards of Conduct, "nonpublic information is information that an employee gains by reason of Federal employment and that he knows or reasonably should know has not been made available to the general public."

X000664

subordinates to engage in nonofficial activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties -- discussing the official response of the White House to inquiries arising as a result of actions taken by the RTC -- and thus, the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

X000665

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

X000666

DRAFT

March 5, 1994

DRAFT

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based solely upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting lasted 30 minutes.

Y000667

THE WHITE HOUSE

or represents a party, ^{WHICH} ~~IF HE~~ determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee**** may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the government officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. We are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqualification under this?]. Because the regulations have been in effect for a little more than one year, there is little, if any, guidance concerning situations that

***(...continued)

consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

**** For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000668

THE WHITE HOUSE

would require an employee to ~~question~~ ^{question} his impartiality. There are no examples in the regulations and no decisions from the Office of Government Ethics on this matter [no formal decisions in print -- do we know of any informal?].

C. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

D. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

X000673

March 3, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BETH NOLAN
ASSOCIATE COUNSEL TO THE PRESIDENT

CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members their staff, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. ~~---were-referenced---~~ White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

X000674

The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of RTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty, which he did. This meeting lasted approximately [time] minutes.

II. General Principles [addresses more Counsel's role]

We start from the proposition that the role of the White House Counsel's Office is to provide legal representation to the White House and its many officers and employees in their official capacities. That is, consistent with the District of Columbia Rules of Professional Conduct, the client of the Counsel's Office is the White House, see D.C. Rule of Professional Conduct 1.6(i), and the Counsel's Office "represents the [White House] acting through its "duly authorized constituents"--its officers and employees. D.C. Rule of Professional Conduct 1.13, Comment [7]. The President is the ultimate "client" of the Counsel's Office, because he has the paramount authority to direct the official activities of all White House officers and employees.

The President is "client," however, only in his official capacity as President. See D.C. Bar. Op. No. 148 (1985) (attorney in government agency represents the agency, not its employees as individuals).^{*} Therefore, matters that are entirely personal to the President require the assistance of private lawyers, as would be the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters (the as) exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer

* This conclusion could be different under a duly authorized program, such as the Department of Justice representation program, in which the government lawyer is assigned to provide individual representation to an officer or employee. See D.C. Rule of Professional Conduct 1.6, Comment [36]. No such program is at issue here.

X000675

3

also to review any issues that should be addressed before the return is filed and made public.

Similarly, matters involving Madison Guarantee while personal to the Clintons, also have an official component. It is personal to the President and First Lady in that it relates to matters prior to the time the President took office. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses. ✓

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7); 101(b)(8); 101(b)(14); 501; 502; 702; 703; 705; and 18 U.S.C. §§ 205 & 208. *pub. off. priv. gain*

non pub. info. A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty.**

** In a letter dated March 1, 1994, Congressman Leach suggests that this ethics provision would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume that he is suggesting that (continued...)

X000676

4

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

B. Impartial and Non-preferential Treatment
Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual" [ital] 5 C.F.R. § 101.6(b)(2)

~~By making the White House and Treasury officials~~
~~No private organization or individual~~

The White House and Treasury officials ~~are not~~ provide pref. treatment

any employee give preferential treatment when he provide access or a loan to one private approved.

another. For example,

allowing certain entities to have access to White House tours, all the House which are prohibited from being provided other than off hours through the Vis. office,

when a White House official who arranges for a meeting for a corporation to meet with the Vis. office, is treating that organization preferentially.

** (...continued)

White House officials were acting for their own private gain -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by create greater job security or leading to a promotion. There is no factual predicate for this assumption nor have we have found any precedent for interpreting the rule in this manner. We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performs so well that he or she is rewarded and promoted. Moreover, . . .

X000677

Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship¹ is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee² may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

¹ An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

² For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000678

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the government officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. We are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?]. Because the regulations have been in effect for a little more than one year, there is little, if any, guidance concerning situations that would require an employee to question his impartiality. There are no examples in the regulations and no decisions from the Office of Government Ethics on this matter [no formal decisions in print -- do we know of any informal?].

Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

X000679

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

X000680

provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at fundraisers), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

X000682

person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

There is no evidence to suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury officials. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute.

Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

X000685

DRAFT

March 5, 1994

DRAFT

MEMORANDUM

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials on procedural matters (i.e., the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also lasted approximately 30 minutes.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would be evaluated independently of this memorandum.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under an official's authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the

X000687

return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could

X000688

achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000689

Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship¹ is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee² may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

¹ An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

² For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000690

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons. Additionally, because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from the Office of Government Ethics on the more general standard matter.

If they should have sought authorization, and we are not arguing this point, we are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?].

Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or

X000691

attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

insert into: Non preferential treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain entities access to White House tours (e.g., to be auctioned at fundraisers), which are prohibited other than official tours through the Visitors' office, is treating that organization preferentially. By meeting with the Treasury officials, the White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a). There is no evidence that suggests that the White House officials disclosed any information. Rather, the White House officials were the recipients of information provided by the Treasury officials.

Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters. As discussed previously, we are of the opinion that the White House officials were acting in their official capacity and not in pursuit of private interests when meeting

X000692

with the Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

X000693

March 5, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members their staff, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign -- were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

X000694

The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of RTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty, which he did. This meeting lasted approximately [time] minutes.

II. General Principles

We start from the proposition that the role of the White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of the duties for which ^{his constitutional, statutory, ceremonial or other} funds are appropriated for the President should not be performed on official time, using official resources or an official's ^{employee's} authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters (the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter).

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the return is filed and made public. Similarly, where ^{personally} most persons must use personal funds to pay for the services of calligraphers and cooks, it is appropriate for the President, under authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about such personal matters.

personal *stat* *these*

X000695

Similarly, matters involving Madison Guarantee while personal to the Clintons, also have an official component. It is personal to the President and First Lady in that it relates to matters prior to the time the President took office. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7); 101(b)(8); 101(b)(14); 501; 502; 702; 703; 705; and 18 U.S.C. §§ 205 & 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House employees involved in the contacts stood to gain "other benefits" by the actions undertaken.

¹ In a letter dated March 1, 1994, Congressman Leach suggests that this ethics provision would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no factual predicate for this assumption nor have we found any precedent for interpreting the rule in this manner. We find it

employees who gain the "other benefits" of ^{understanding an action in which they benefit by more benefits}

X000696

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.
[finish]

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 101(b)(8) & 502.[cite]

Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performs so well that he or she is rewarded and promoted. Moreover, .

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

X000697

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the government officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. We are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqualification under this?]. Because the regulations have been in effect for a little more than one year, there is little, if any, guidance concerning situations that would require an employee to question his impartiality. There are no examples in the regulations and no decisions from the Office of Government Ethics on this matter [no formal decisions in print -- do we know of any informal?].

C. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000698

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

D. Activities of Officers and Employees in Claims Against
and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

X000699

and it is for that reason that OGE noted that this provision cannot be read so broadly as to limit an employee from performing his official duties -- because taken to its extreme, each time one did one's job well, one would be acting to benefit one's supervisor and thereby violating the regulations

a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 702(a). It would appear that White House officials did not undertake actions that could be construed in this fashion, the circumstances of the meetings would not suggest that there were attempts by White House officials to induce Treasury officials to provide a benefit, financial or otherwise, for the Clintons

first, Treasury Department officials, in each instance, instigated the contact with the White House

second, in each of the contacts, there was an official purpose -- namely to inform or address press that the White House likely would receive in the wake of referrals in which the President's name was mentioned despite the fact that he was not a target or a subject

third, the discussions, rather than going to the nature of the actions, went to the way in which it should be discussed officially; the last contact involved information that was disclosed to Congress and the press, namely procedural aspects regarding the statute of limitations and recusal standards for government employees in matters in which a PAS's action may have an affect on the President

X000700

March 5, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members, their staff, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign -- were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes. ✓ [true]

X000701

Meeting
The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of JRTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty, which he did. This meeting lasted, approximately [time] minutes. *Who did we meet with? What were the procedural matters (i.e. statute of limitations)?*

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under an official's authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter. ?

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

thus, it is in this context that we have reviewed the propriety of the contacts between White House officials and Treasury officials.

also have an official component X000702

Similarly, matters involving Madison Guaranty, while personal to the Clintons, also have an official component. ~~It is personal to the President and First Lady in that it relates to matters prior to the time the President took office.~~ However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which ~~that~~ necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 & 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefited in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion, ~~to cite~~ *implying that* this ethics provision would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the

X000703

in order

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

[finish]

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." (101(b)(8) & 501. [cite])

insert non-preferential treatment here

2. Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

76 Fed. Reg. 35003-30 (Aug. 7, 1991)

aforementioned contacts -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed it appears to run counter to OGE's guidance. [cite fed. reg]. We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing so well that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of their supervisors in their official capacity, are prohibited by this provision.

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director,

X000704

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons. Additionally, because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from the Office of Government Ethics on the more general standard matter.

trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000705

If they should have sought authorization, and we are not arguing this point, we are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?].

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

insert into: 1. ^{+ Giving} ~~Not~~ preferential treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain entities access to White House tours (e.g., to be auctioned at fundraisers),

that otherwise
 which are prohibited other than official tours through the
 Visitors' office, is treating that organization preferentially.
 By meeting with the Treasury officials, the White House officials
 did not confer a benefit or access to a private individual or
 entity. Therefore, they did not treat any private organization
 or individual preferentially.

Public Conduct by
 X 000706

C. Disclosure of Nonpublic Information

Switch side
 Another restriction on employee conduct is a prohibition on
 engaging in a financial transaction using nonpublic information,
 or allowing the improper use of nonpublic information to further
 the employee's own private interest or that of another, whether
 through advice or recommendation, or by knowing unauthorized
 disclosure. 5 C.F.R. § 2635.703(a). There is no evidence that
 suggests that the White House officials disclosed any
 information. Rather, the White House officials were the
 recipients of information provided by the Treasury officials.

D. Use of Official Time

Another conduct regulation provides that an employee is required
 to "use official time in an honest effort to perform official
 duties." 5 C.F.R. § 2635.705. This regulation was intended to
 prevent employees from using government time to engage in
 personal matters. As discussed previously, we are of the opinion
 that the White House officials were acting in their official
 capacity and not in pursuit of private interests when meeting
 with the Treasury officials. Therefore, the time spent in the
 meetings was expended in an honest effort to perform their
 official duties, and the officials have not violated this conduct
 regulation.

*and to prevent
 supervising from
 directing subordinates
 to engage in activities
 that personally benefit
 the supervisor.*

*While we are not
 addressing the
 propriety of the Treas-
 ury officials' conduct, there
 is no evidence that
 any nonpublic infor-
 mation was disclosed to
 further an employee's
 private interest or that of another.*

*either by a WH
 to all official or
 Treasury official.*

March 5, 1994

X000707

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members their staff, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign -- were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

X000708

The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of RTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty, which he did. This meeting lasted approximately [time] minutes.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under an official's authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

X000709

Similarly, matters involving Madison Guarantee while personal to the Clintons, also have an official component. It is personal to the President and First Lady in that it relates to matters prior to the time the President took office. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7); 101(b)(8); 101(b)(14); 501; 502; 702; 703; 705; and 18 U.S.C. §§ 205 & 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefits in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. [cite] this ethics provision would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the

X000710

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance OGE provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for the personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of

aforementioned contacts -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by create greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed it appears to run counter to OGE's guidance. [cite fed. reg]. We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performs so well that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of their supervisors in their official capacity, are prohibited by this provision.

X000711

their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely to address public inquiries [address other issue] that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 101(b)(8) & 502.[cite]

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain entities access to White House tours (e.g., to be auctioned at fundraisers), which are prohibited other than official tours through the Visitors' office, is treating that organization preferentially. By meeting with the Treasury officials, the White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

X000712

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000713

question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons. Additionally, because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from the Office of Government Ethics on the more general standard matter.

If they should have sought authorization, and we are not arguing this point, we are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?].

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a). There is no evidence that suggests that the White House officials disclosed any information. Rather, the White House officials were the recipients of information provided by the Treasury officials.

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters. As discussed previously, we are of the opinion that the White House officials were acting in their official capacity and not in pursuit of private interests when meeting with the Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a

X000714

matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

X000715

March 5, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members their staff, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign -- were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

X000722

The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of RTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty, which he did. This meeting lasted approximately [time] minutes.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under an official's authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

X000723

Similarly, matters involving Madison Guaranty while personal to the Clintons, also have an official component. It is personal to the President and First Lady in that it relates to matters prior to the time the President took office. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7); 101(b)(8); 101(b)(14); 501; 502; 702; 703; 705; and 18 U.S.C. §§ 205 & 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefits in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. [cite] this ethics provision would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the

X000724

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance OGE provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for the personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of

above-mentioned contacts -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by create greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed it appears to run counter to OGE's guidance. [cite fed. reg]. We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performs so well that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of their supervisors in their official capacity, are prohibited by this provision.

X000725

their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely to address public inquiries [address other issue] that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 101(b)(8) & 502.[cite]

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain entities access to White House tours (e.g., to be auctioned at fundraisers), which are prohibited other than official tours through the Visitors' office, is treating that organization preferentially. By meeting with the Treasury officials, the White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

X000726

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House or Treasury officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000727

question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any of the White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons. Additionally, because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from the Office of Government Ethics on the more general standard matter.

If they should have sought authorization, and we are not arguing this point, we are not aware of any official having pursued the authorization process [CDM-- is this true? Was Altman's disqual. under this?].

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a). There is no evidence that suggests that the White House officials disclosed any information. Rather, the White House officials were the recipients of information provided by the Treasury officials.

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters. As discussed previously, we are of the opinion that the White House officials were acting in their official capacity and not in pursuit of private interests when meeting with the Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a

X000728

matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any officials participated in a particular matter likely to affect their financial interests or those of another prohibited under the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representation of anyone other than the White House.

X000729

person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000730

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

There is no evidence to suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury officials. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute.

X000731

Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

X000732

DRAFT

March 5, 1994

DRAFT

MEMORANDUM

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

X000733

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials on procedural matters (i.e., the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also lasted approximately 30 minutes.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would be evaluated independently of this memorandum.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under an official's authority of office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer also to review any issues that should be addressed before the

X000734

return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could

X000735

achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000736

provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going to the nature of the actions, went to the way in which the matter should be discussed officially.

X000737

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at fundraisers), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or represents a party, if he determines that a reasonable

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or an organization in which the employee is an active participant.

X000738

person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000739

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

There is no evidence to suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury officials. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in activities that personally benefit the supervisor.

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute.

X000740

Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

X000741

DRAFT

March 5, 1994

DRAFT

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

KATHLEEN WHALEN
ASSISTANT COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

and a related Congressman Leach's inquiry
This memorandum responds to your request for a review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials on September 29, 1993, October 14, 1993, and February 2, 1994 in response to inquiries the Treasury Department had received from the press and/or procedural issues that were to be, or had been, discussed with Congressional members, their staffs, and the press.

I. Background

This memorandum is based solely upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco matter. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, Director of Public Affairs, requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for *The New York Times*. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one involving four cashier's checks -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner, Chief of Staff of the Treasury Department, to discuss appropriate responses to *The New York Times* inquiry. This meeting lasted 30 minutes.

X000742

The third contact between the White House and Treasury Department officials occurred on February 2, 1994. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Acting Chief Executive Officer of the RTC, made a request to the Chief of Staff's Office to meet with White House officials. At this meeting, Mr. Altman briefed White House officials, including Maggie Williams, Harold Ickes and Bernard Nussbaum, on procedural matters (i.e., the statute of limitations for civil matters related to savings and loans violations) regarding Madison Guaranty. This meeting also lasted approximately 30 minutes.

The analysis contained in this memorandum is based solely on the facts described above. If other issues were raised during any of these contacts, such issues necessarily would have to be evaluated independently.

II. General Principles

We start from the proposition that the role of White House employees is to assist the President in the performance of his constitutional, statutory, ceremonial and other duties. Cf. 3 U.S.C. § 105. Employees are charged with undertaking those duties or tasks that are required of them in their official capacities for the President as their ultimate supervisor.

The President is supervisor, however, only in his official capacity as President. Therefore, matters that are entirely personal and are outside of the scope of his constitutional, statutory, ceremonial or other duties should not be performed on official time, using official resources or under authority of one's government office, as is the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as the exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the roles of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer

X000743

also to review them for any issues that should be addressed before the return is filed and made public. Similarly, where most persons personally must pay for the services of calligraphers and cooks, it is appropriate for the President, pursuant to authority granted by Congress under Title III, to use federal dollars to pay the salaries of such staff. Likewise, because the public is interested in knowing a considerable amount about personal matters related to the President -- e.g., where he is taking vacation, how he scratched his face, how he hurt his back -- it is appropriate to have press spokespersons issue official statements about these matters.

Similarly, matters involving Madison Guaranty, while personal to the President and First Lady in that they relate to matters prior to the time the President took office, also have an official component. Agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise official issues that the White House must address. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether there was any violation by White House officials under the specific ethics regulations and laws. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: 5 C.F.R. §§ 2635.101(b)(7), 101(b)(8), 101(b)(14), 501, 502, 702, 703, 705; and 18 U.S.C. §§ 205 and 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) and 702.

X000744

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal financial gain from this matter. None of the White House employees have a financial interest in Madison Guaranty. Nor is it apparent that any of the White House officials involved in the contacts stood personally to gain "other benefits" by their actions.¹

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

We start from the guidance the U.S. Office of Government Ethics ("OGE") provides regarding the application of the provision governing the use of public office for private gain. OGE states that "issues related to an individual employee's use of public office for private gain tend to arise when the employee's action benefits those with whom the employee has a relationship outside the office, and the language of § 2635.702 is intended to pinpoint this conduct without unreasonably limiting employees in

¹ In a letter dated March 1, 1994, Congressman Leach appears to suggest that employees benefit in violation of this ethics provision when acting in matters which enhance their individual job security or eligibility for promotion. See Letter from Congressman Leach, March 1, 1994, at 4. While the Congressman's meaning is unclear to us, we assume that he is suggesting that White House officials were acting for their own private gain in the aforementioned contacts -- namely, because their desire to please their superiors and perform well ultimately inures to their financial benefit by creating greater job security or leading to a promotion. There is no precedent for interpreting the rule in this manner; indeed, it runs counter to guidance of the U.S. Office of Government Ethics. See 57 Fed. Reg. 35,030 (August 7, 1993). We find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performing well so that he or she is rewarded and promoted. Similarly, it is equally implausible that actions by subordinate employees, which also inure to the benefit of supervisors in their official capacity, are prohibited by this provision.

X000745

the performance of their official duties." 57 Fed. Reg. 35030 (August 7, 1992). We believe it is important to apply this provision in light of its goal, namely, prohibiting official actions for personal or private financial or other benefit.

This provision addresses both financial and "other benefits." As a preliminary matter, we dispose of the issue that any of the employees acted in a matter in which they had a personal financial interest. None of the government officials, to our knowledge, have a financial interest in Madison Guaranty. Thus, none were acting in a matter where their own financial interest could be affected. The only financial or other benefits that could arise from the employees' actions was to the Clintons.

The financial or other benefits that the employees' could have been acting to provide is ensuring that the Clintons were not found criminally or civilly liable for any matters related to the referrals from the RTC. The actual actions taken by White House officials in these matters, namely discussing appropriate responses to inquiries from the press or Congress, were undertaken as part of the official responsibilities of the White House officials. Thus, these actions were in furtherance of their official duties as White House employees, and not for the personal financial interest of the Clintons. Based upon the discussions during the White House employees' contacts with Treasury officials -- which went to actual or anticipated media inquiries, including the procedural posture of the matter -- rather than to ways or attempts to affect those actions to be taken by the U.S. Attorney's Office on the referral, White House officials did not use public office for private gain of the Clintons.

In addition to not using public office for private gain, a public official also may not use "his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives or persons with whom the employee is associated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

The circumstances of the contacts at issue do not suggest that White House officials took any actions that could be construed as coercing another individual to provide any benefit to the Clintons. First, in each instance Treasury Department officials instigated the contact and the discussions with White House staff members. Second, each of the contacts was for an official purpose -- namely, to address anticipated public inquiries that the White House likely would receive in the wake of referrals. Finally, as previously stated, the discussions, rather than going

to the nature of the actions, went to the way in which the matter should be discussed officially.

B. Impartial and Non-preferential Treatment

Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual;" an employee should take "appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties." 5 C.F.R. § 101(b)(8) and 502.

1. Not Giving Preferential Treatment

An employee gives preferential treatment when he provides access or a benefit to one private party that cannot be provided to all private entities. For example, allowing certain private entities access to White House tours (e.g., to be auctioned at fundraisers), that are otherwise prohibited (i.e., other than official public tours conducted by or through the Visitors' Office), is treating that organization preferentially. By meeting with Treasury officials, White House officials did not confer a benefit or access to a private individual or entity. Therefore, they did not treat any private organization or individual preferentially.

2. Impartiality in Performing Official Duties

The standards of conduct also require that an employee avoid any actions creating the appearance that they are violating the law or the ethical standards. 5 C.F.R. § 2635.101(b)(14). Specifically, the standards prohibit an employee, unless authorized, from participating:

in a particular matter involving specific parties which he knows is likely to affect the financial interest of a member of his household, or in which he knows a person with whom he has a covered relationship² is or

² An employee has a covered relationship with: a person with whom an employee has or seeks a business, contractual or other financial relationship; a member of the employee's household or a close relative; a person for whom the employee's spouse, child or parent is serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; a person with whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor

X000747

represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter.

5 C.F.R. § 2635.501(a) and 502(a).

The agency designee³ may make a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. There is a series of factors the agency designee is to consider, including the nature of the relationship, the financial effect, the nature and importance of the official's participation, and the sensitivity of the matter. 5 C.F.R. § 2635.502(d).

None of the facts on which we base this memorandum indicate that any White House officials participated in a matter involving specific parties in which an entity with which they have a "covered relationship" is or represents a party. Therefore, it would not have been necessary for any of those officials to invoke the authorization procedures required in section 502.

However, a more general restriction in the standards requires that an employee who is concerned that circumstances other than those specifically described in section 502(a) would raise a question regarding his impartiality also should use the authorization process to determine whether he should or should not participate in a particular matter. 5 C.F.R. § 2635.502(a)(2).

It is not clear that any White House officials who participated in the meeting would have had reason to be concerned that the circumstances were such that they would raise a question regarding their impartiality. They were addressing the issues raised in the meetings as official matters as opposed to matters of personal interest to the Clintons.

Because the regulations have been in effect for just a little over a year, there is no guidance concerning situations that would require an employee to question his impartiality, other

or employee; or an organization in which the employee is an active participant.

³ For the White House, the agency designee is the Counsel to the President, as the Designated Agency Ethics Official (DAEO), or Beth Nolan, Associate Counsel to the President, as the Alternate DAEO.

X000748

than the covered relationships. There are no examples in the regulations and no decisions from OGE on the more general standard matter.

C. Disclosure of Nonpublic Information

Another restriction on employee conduct is a prohibition on engaging in a financial transaction using nonpublic information, or allowing the improper use of nonpublic information to further the employee's own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. 5 C.F.R. § 2635.703(a).

Considering the facts that we have outlined above,
There is no evidence to suggest that White House officials knowingly disclosed nonpublic information. Instead, White House officials were the recipients of information provided by Treasury officials. We do not have reason to believe that this information had "not actually been disseminated to the general public and [was] not authorized to be made available to the public on request." 5 C.F.R. § 2635.703(b)(3).

Was nonpublic, i.e., that it...

D. Use of Official Time

Another conduct regulation provides that an employee is required to "use official time in an honest effort to perform official duties." 5 C.F.R. § 2635.705. This regulation was intended to prevent employees from using government time to engage in personal matters and to prevent superiors from directing subordinates to engage in activities that personally benefit the supervisor.

*Rtc reg
and no
disclosure
rule/
access
financial
record*

As discussed previously, we are of the opinion that White House officials were acting in their official capacity and not in pursuit of private interests when meeting with Treasury officials. Therefore, the time spent in the meetings was expended in an honest effort to perform their official duties, and the officials have not violated this conduct regulation.

E. Acts Affecting a Personal Financial Interest

A criminal conflict of interest statute prohibits a federal employee from participating personally and substantially in a matter in which he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has an arrangement concerning prospective employment, has a financial interest. 18 U.S.C. § 208(a).

X000749

There is nothing in the facts as stated above that would indicate that any White House officials participated in a particular matter likely to have a direct and predictable effect on their financial interests or those of any other listed in the statute. Therefore, we conclude that this criminal statute has not been violated.

F. Representational Activities

Another criminal conflict of interest statute prohibits a federal employee from acting as agent or attorney for prosecuting any claim against the United States or from acting as agent or attorney for anyone before any department, agency, or court in connection with any covered matter (which includes an investigation or other particular matter) in which the United States is a party or has a direct and substantial interest. 18 U.S.C. § 205(a).

This statute has been interpreted generally to cover actions that an employee undertakes in his personal capacity, as opposed to actions that are part of his official responsibilities. In other words, employees may make contacts and appearances on behalf of their employing agency. They are expected to communicate with and appear before other agencies to discuss official matters.

As discussed previously, it appears that the meetings that occurred were official actions as opposed to personal actions. Any communications made by White House officials were on behalf of the White House and were not made as representations of anyone other than the White House.

It is our understanding based on facts presented to us, that the communications were done by officials to anticipate press inquiries.

DAILY PHONE LOG

DATE: X000750①

NAME <u>Dennis Brennan</u> Date <u>Tuesday</u> Time <u>10:05</u> Phone <u>622-0283</u>	REMARKS ACTION TAKEN <u>Jim Leach</u> → recall - document request <u>Vacancy Act</u> & "Susan Ethics" <u>Personal relationship</u> issue → spot a letter Legal issue is clear
NAME <u>DF: [unclear]</u> Date <u>Thursday [unclear]</u> Time <u>Slacking at procedural</u> Phone <u>is [unclear] → not the merits of the tolling issues or</u>	REMARKS ACTION TAKEN <u>Vacancy Act</u> → current time limit withdrawal of worst names → April Worked a lot w/ Justice on this app (OLC → very comfortable w/ it) →
NAME <u>Any substantive issue.</u> Date <u>Our conversation purely re</u> Time <u>ethics issue (BN agrees → purpose is to make sure ethics decision re [unclear] is correct)</u> Phone	REMARKS <u>Exec. Branch vacancy</u> ACTION TAKEN in independent agency • No legal issue w/ vacancy act • No ethical issue w/ responsibility • Personal appearance issue → not relevant ↓ if have Roger in process
NAME <u>DF with: Steve Potts</u> Date <u>RT: Art Kozlinsky - Ellen Kuznetsov</u> Time Phone <u>Leach ltr. on fact page of Wash. Times</u>	REMARKS ACTION TAKEN <u>Underlying work has not been.</u> <u>Dep. CEO - Jack Ryan</u> on his way to him today Deadline: 2/28/94 → NOT today Jean suggested that [unclear] contact
NAME Date Time Phone	REMARKS ACTION TAKEN Steve Potts + OES. For them to tell them it's not an ethics/legal Q, or if RT → would defer to let them know they're wrong - Roger + Treasury appearance issue only. Rose one other thing? May never have to reach CEO. Concern about
NAME <u>DE:</u> Date <u>Personal Side / President's side → not</u> Time <u>RT call. OLC is lot of RT rules.</u> Phone	REMARKS ACTION TAKEN something "off-the-wall" Can't be protected against w/o it having to go to Roger? or: Maybe & has to go to the OLC so must face recall issue

any [unclear] [unclear] I [unclear]

REDACTED

X000751

DAILY PHONE LOG

DATE: 2-4-93

NAM _____	REMARKS _____
Date _____	ACTION TAKEN _____
Time _____	
Phone _____	

NAME _____	REMARKS _____
Date _____	ACTION TAKEN _____
Time _____	
Phone _____	

NAME <u>Dennis Freeman</u>	REMARKS _____
Date <u>Tuesday</u>	ACTION TAKEN _____
Time <u>11:45</u>	<u>Quick + dirty</u>
Phone <u>622-0283</u>	<u>Not a statutory or regulatory issue</u>
	<u>Roger mentioned it to Ellen Kulter last night</u>
	<u>near am. mtg. has been setup. Leach HR</u>

NAME _____	REMARKS _____
Date _____	ACTION TAKEN _____
Time _____	<u>✓</u>
Phone _____	<u>Fixed HR. to him.</u>
	<u>Doc. regave out gang and BT.</u>
	<u>Vacancy P itself & preparing in-house doc</u>
	<u>CAOS and Ex. Branch agencies</u>

NAME _____	REMARKS _____
Date _____	ACTION TAKEN _____
Time _____	<u>non: specific except</u>
Phone _____	<u>not dec yet in</u>
	<u>Not telling others who</u>
	<u>CAO.</u>

NAME _____	REMARKS _____
Date _____	ACTION TAKEN _____
Time _____	
Phone _____	

X000752

DAILY PHONE LOG

DATE: 2-9-①

NAME <u>Dennis Freeman</u>	REMARKS
Date <u>Tuesday</u>	ACTION TAKEN
Time <u>11:10 am</u>	No statutory or regulatory mandate that requires refusal →
Phone <u>622-0283</u>	① In discretion of agency ethics official ② If they don't ask, then up to official
NAME	REMARKS
Date	ACTION TAKEN
Time	Draft Memo from Art + Dennis →
Phone	Working on assumption of close friendship w/ POTUS → OGE: a factor to be weighed, but not dispositive.
NAME	REMARKS
Date	ACTION TAKEN
Time	All of opinion in end that it's Roger's choice →
Phone	OGE will block up Agency call, whichever way it goes.
NAME <u>Memo signed by Dennis + Art, okayed up</u>	REMARKS
Date	ACTION TAKEN
Time <u>OGE that says no legal/technical barrier → so leave it to him as his call.</u>	Q of precedent → circumstances unique enough that doesn't create precedent. Ricki Tiger's situation <u>does</u> set a price Riger continuing to think about appearance <u>staring</u>
NAME	REMARKS
Date	ACTION TAKEN
Time <u>Their</u>	earnings → it's not a very good idea, but don't to put him in the position of ignoring ad
Phone	Agreed he may continue to think about it
NAME <u>Jean + Dennis have not talked.</u>	REMARKS
Date <u>Concern of some people → only</u>	ACTION TAKEN
Time <u>reason not to recuse is concern that his involvement is necessary to a fairly thoughtful decision (new GC/new CEO) →</u>	→ Precluding writings until decision. → Ricki Tiger's stories make it more "dangerous" for Roger not to recuse

Weight of appearance grows heavier when one looks at potential damage it may cause to POTUS + Payor. Anything less that will have less criticism +

REDACTED

DATE: 2/25

NAME <u>Belmont, J. Edgar</u> Date <u>Tuesday</u> Time <u>1:00</u> Phone <u>522-0223</u>	REMARKS ACTION TAKEN <u>2) Memo to Roper - 7 March 50</u> <u>VH Mtg Room 4-28 4:00</u> <u>to review on 1-28</u>
NAME _____ Date _____ Time _____ Phone _____	REMARKS ACTION TAKEN
NAME _____ Date _____ Time _____ Phone _____	REMARKS ACTION TAKEN
NAME _____ Date _____ Time _____ Phone _____	REMARKS ACTION TAKEN
NAME _____ Date _____ Time _____ Phone _____	REMARKS ACTION TAKEN
NAME _____ Date _____ Time _____ Phone _____	REMARKS ACTION TAKEN

X000754

Telephone Log 2/25

NAME Dennis Foreman
Date Treasury
Time 12:20
Phone 622-0283

ACTION TAKEN

- 1 non responsive matter -- redacted
- 2 Memo to Roger - March 30
WH Mtg No ethics obligation,
but here are factors
- 3 non responsive matter -- redacted

This is a typed version of 2/25 phone log, which is not legible

Bar N. B.
3-10-94

R000755

HENRY S. BONZALLI, TEXAS, CHAIRMAN
 STEPHEN L. NEAL, NORTH CAROLINA
 JAMES L. LAFALCE, NEW YORK
 * RICHIE F. VENTURA, MINNESOTA
 CHARLES S. SCHUMER, NEW YORK
 BARNETT FRANK, MASSACHUSETTS
 PAUL E. KAMMORSKI, PENNSYLVANIA
 JOSEPH P. KENNEDY, MASSACHUSETTS
 FLOYD H. PLAKE, NEW YORK
 KINGSLEY BURNHAM, MARYLAND
 MARSH WATKINS, CALIFORNIA
 LARRY LAROCCA, IDAHO
 BILL GORTER, UTAH
 JIM BACCIGLIONE, FLORIDA
 HERBERT C. ELLEN, NEW JERSEY
 CAROLYN S. MALONEY, NEW YORK
 PETER DEUTSCH, FLORIDA
 LUNG V. GUTIERREZ, ILLINOIS
 BOBBY L. BURN, KENTUCKY
 LUCILLE ROYBAL-ALLARD, CALIFORNIA
 THOMAS M. BARNETT, WISCONSIN
 ELIZABETH FURSE, OREGON
 NYDIA M. VELAZQUEZ, NEW YORK
 ALBERT S. WYNN, MARYLAND
 CLYD PHILIPS, LOUISIANA
 MELVIN WATT, NORTH CAROLINA
 MAURICE HENCHET, NEW YORK
 CALVIN B. BOOLEY, CALIFORNIA
 RON SLINK, PENNSYLVANIA
 ERIC FINGERHUT, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
 ONE HUNDRED THIRD CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-6050

February 3, 1994

JAMES A. LEACH, IOWA
 BILL MACCOLLUM, FLORIDA
 MARIE ROQUEMA, NEW JERSEY
 DOUG BERNUTTER, NEBRASKA
 THOMAS ROSE, PENNSYLVANIA
 TONY ROTH, WISCONSIN
 ALFRED A. BUCHHEISS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM HUSSELL, IOWA
 STEAD THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 DEBORAH PRYCE, OHIO
 JOHN LINDE, GEORGIA
 JOE KNOXBERGER, MICHIGAN
 RICH LADD, NEW YORK
 ROD GRAMM, MINNESOTA
 SPENCER BACHUS, ALABAMA
 BRUCE HUFFNITZ, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KING, NEW YORK
 BERNARD SANDERS, VERMONT
 (202) 225-4247

Mr. Roger C. Altman
 Interim CEO
 Resolution Trust Corporation
 801 17th Street, NW
 Washington, DC 20434

Dear Mr. Altman:

I am in receipt of your February 1, 1994 response to the letter initiated by Senate Republican leadership concerning Madison Savings and Loan and I am pleased to learn that the RTC "will vigorously pursue all appropriate remedies" with regard to Madison's failure. It seems self-apparent that in order for the RTC to pursue vigorously all remedies it must have all relevant information at its disposal. Accordingly, I urge the RTC to seek and review all Whitewater Development Corporation documents turned over by the White House to the Justice Department. ✓

In its investigation of Madison, the Minority has uncovered links between Madison and Whitewater, some of which may have contributed to the thrift's failure. Not only did James and Susan McDougal hold significant ownership interest in both entities (approximately two thirds in Madison and one half in Whitewater), but the other joint owners of Whitewater (Bill and Hillary Clinton) appear to have benefited directly and indirectly from the application of Madison resources. [See the attached memo.]

If the White House chooses to use the Justice Department to shield Whitewater documents not only from the public and Congress, but from other government agencies, such as the RTC, which have legitimate public law enforcement responsibilities, it is hard to believe a responsible resolution of the issues involved can be made by regulatory authorities. ✓

I have high regard for your personal integrity, but as you know, from the beginning, it has been an awkward situation to have a presidentially appointed and confirmed officer of the Treasury Department also head an independent federal agency, the Resolution Trust Corporation (RTC). When this prospect was first suggested at the beginning of the Clinton Administration, it did

X000756

Mr. Roger C. Altman
Page 2
February 3, 1994

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseen for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President. ✓

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

X000757

Mr. Roger C. Altman
Page 3
February 3, 1994

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,



JAMES A. LEACH
Ranking Member

JAL:gp

Enclosure

code of federal regulations

X000758 APR 14 1993

Banks and Banking

EXECUTIVE OFFICE OF THE
PRESIDENT LAW LIBRARY
Room 528 OMB
Washington, DC 20500

12

PART 600 TO END

Revised as of January 1, 1993



CHAPTER XVI—RESOLUTION TRUST CORPORATION

<i>Part</i>		<i>Page</i>
1605	Employee responsibilities and conduct	660
1606	Qualification of, ethical standards of conduct for, and restrictions on the use of confidential infor- mation by independent contractors.....	683
1608	Appraisals	694
1609	Affordable Housing Disposition Program.....	708
1611	Emergency acquisition of savings associations	725
1613	Resolution Trust Corporation as conservator or receiver.....	725
1615	Disclosure of Information.....	725
1616	Privacy Act Regulations.....	737
1617	Minority and Women Outreach and Contracting Program	743
1618	Suspension and exclusion of registered contrac- tors and rescission of contracts	756
1620	Restrictions on Sale of Assets by the Resolution Trust Corporation.....	764
1680	Office of Inspector General; disclosure of infor- mation	767

X000759

X 6007 60

§ 1605.1

PART 1605—EMPLOYEE RESPONSIBILITIES AND CONDUCT **Subject A—Purpose, Scope, Definitions, and Administrative Provisions**

Sec.
 1605.1 Purpose and scope.
 1605.2 Definitions.
 1605.3 Employees responsible, counseling, and distribution of regulations.
 1605.4 Designation of Ethics Counselor, Alternate Ethics Counselor, and Deputy Ethics Counselor.
 1605.5 Actions and remedial actions.
 1605.6 Review of remedial actions.

Subject B—Ethical and Other Conduct and Responsibilities of RTC Employees

1605.7 General rules.
 1605.8 Gifts, entertainment, favors, and loans.
 1605.9 Travel expenses.
 1605.10 Use of official information.
 1605.11 Lectures, speeches, and manuscripts.
 1605.12 Employment by RTC of relatives.
 1605.13 Use of property and resources owned or controlled by the RTC.
 1605.14 Indebtedness, gambling, and other conduct.

Subject C—Financial Interests and Obligations Outside Employment

1605.15 General rules.
 1605.16 Extensions of credit.
 1605.17 Securities of insured depository institutions.
 1605.18 Other investments.
 1605.19 Purchase of assets of institutions in conservatorship or receivership.
 1605.20 Purchase of RTC property.
 1605.21 Purchase of assets of insured depository institutions.
 1605.22 Providing goods or services to the RTC.
 1605.23 Outside employment and other activity.
 1605.24 Employment of family members by persons other than the RTC.

Subject D—Reports of Interest in Insured Depository Institution Securities, Interest in RTC Decision, and Employment Upon Resignation Statements of Employment and Financial Interests Provided Disclosure Reports

1605.25 Report of interest in insured depository institution securities.
 1605.26 Report of interest in RTC decision.
 1605.27 Report of employment upon resignation.

12 CFR Ch. XVI (1-1-93 Edition)

Sec.
 1605.28 Statement of employment and financial interests.
 1605.29 Financial Disclosure Reports under the Ethics in Government Act of 1978.

Subject E—Limitation on Past Employment Activities of Former Employees, Including Special Government Employees

1605.30 Limitations on representation.
 1605.31 Limitations on aiding or advising.
 1605.32 Consultation as to propriety of appearance before the RTC.
 1605.33 Suspension of appearance privilege.

Subject F—Ethical and Other Conduct and Responsibilities of Special Government Employees

1605.34 General.
 1605.35 Applicability of 18 U.S.C. 203 and 205.
 1605.36 Applicability of 18 U.S.C. 207.
 1605.37 Applicability of 18 U.S.C. 208.
 1605.38 Advice on rules of conduct and conflicts of interest statutes.
 1605.39 Use of official information.
 1605.40 Use of inside information.
 1605.41 Coercion.
 1605.42 Gifts, entertainment, favors, and loans.
 1605.43 Statements of employment and financial interests.

Subject G—Competence, Experience, Integrity, and Fitness of Resolution Trust Corporation Employees

1605.44 Minimum competence, experience, integrity, and fitness requirements for Resolution Trust Corporation employees.
 AUTH: RTTC: 3 CFR 1964-1965 Comp. 1 CFR 735.104; 5 CFR 2637.104a; E.O. 12671 18 U.S.C. 1411a(p)(2).

SOURCE: 55 FR 5370, Feb. 14, 1990, unless otherwise noted.

Subject A—Purpose, Scope, Definitions, and Administrative Provisions

§ 1605.1 Purpose and scope.
 In order to assure the proper performance of RTC business and to maintain public confidence, and employment, members, officers, and employees of the RTC (hereinafter collectively referred to as "RTC employees") are required to maintain the highest standards of honesty, integrity,

Insulation Trust Corporation

impartiality, and conduct and to avoid inequity and conflicts of interest. This part establishes the policies and procedures of the RTC with regard to the ethical and other standards of conduct and responsibilities of employees and special government employees. Permissible financial interests, obligations, and outside employment, including in this part together with the policies and procedures for employee reporting of financial interests and obligations.

§ 1605.2 Definitions.

For the purposes of this part:
 (a) *Affiliate* means any depository institution holding company of which an insured bank or insured savings association is a subsidiary and any other subsidiary of such depository institution holding company. Any entity which is a subsidiary of an insured bank or insured savings association shall be deemed to be an affiliate of that insured bank or insured savings association.

(b) *Appearance* means an individual's presence before the United States in connection with a setting or conveyance of all or part of the United States in connection with a formal proceeding or application. A communication is broader than appearance and includes, for example, correspondence or telephone calls.
 (c) *Appropriate director* means the Executive Director of the RTC and all persons holding director positions within the RTC including regional directors or regional counsel assigned to the RTC.

(d) *Insured depository institution* means: (1) Any insured depository institution which has been established under the Federal Reserve Act; (2) any insured depository institution resulting from a merger or consolidation with an insured depository institution described in paragraph (d)(1) of this section; or (3) any parent depository institution holding company of an insured depository institution described in paragraph (d)(1) of this section; provided, That an ongoing financial relationship, including, but not limited to, a revolving line of credit, the servicing of assets, or the existence of stock or

§ 1605.2

warrants, exists between such insured depository institution or depository institution holding company and the RTC.

(e) *Assuming entity* means any insured depository institution or depository institution holding company which has entered into a transaction with the RTC to purchase some or all of the assets and assume some or all of the liabilities of a failed insured depository institution for a period of one year following the closing of such failed insured depository institution.

(f) *Attorney* means any individual employed by the FDIC as an attorney, whether or not assigned to the Legal Division, who is assigned or detailed to perform functions or activities of the RTC. The term does not include outside attorneys engaged in the private practice of law and retained by the RTC.

(g) *Chairperson* means the Chairperson of the Board of Directors of the RTC.

(h) *Conservator* means the RTC when appointed to take over the management of the affairs of an insured depository institution.

(i) *Covered employee* means any employee required to file a statement of financial interests and financial interests or a Financial Disclosure Report pursuant to § 1605.28(a) or § 1605.29.

(j) *Deed of gift* means:
 (1) Any default on any obligation to pay principal or interest to an insured depository institution; or
 (2) Any act that was intended to cause a loss to an insured depository institution; or

(3) A borrower's entering into a loan agreement with an insured depository institution, the making of which was an unsafe or unsound action of the institution on the basis of facts that, known or known or should have known, rendered the borrower's default on such loan in the amount of \$50,000 or more.
 (k) *Default means:*
 (1) In the case of a delinquency of 90 or more days as to payment of principal or interest on a loan or advance from an insured depository institution; or

(2) A failure to comply with the terms and conditions of a contract with the FDIC, the Federal Savings

X000761

§ 1605.3

and Loan Insurance Corporation (FELIC), or the RTC, or an insured depository institution, other than a loan or advance.

(1) *Dependent child* means a son, daughter, stepson, or stepdaughter who is unmarried, under 21, and living in the employee's household or her support from the employee in the preceding calendar year.

(m) *FDIC* means the Federal Deposit Insurance Corporation, in its corporate or receivership capacity or as conservator of an insured depository institution.

(n) *Remuneration* means a payment usually for services rendered, or a gratuity for services rendered, which custom or practice forbids a prior to be set. *Independent contractor* means the individual or entity whose work product is supervised by the RTC, but whose employees do not perform functions or activities of the RTC under the direct supervision of an officer or employee of the RTC.

(p) *Insured depository institution* means any bank or savings association the deposits of which are insured by a Federal deposit insurance fund administered by the FDIC.

(q) *Investment* means any interest in securities, real property, limited partnership, or other assets held for the production of income.

(r) *Loss* means:

(1) An obligation as to which there is a continuing legal claim that is owed to an insured depository institution, or to a Federal deposit insurance fund, the FELIC, or to the RTC that is 12 months or more delinquent as to principal or interest; or

(2) An obligation to pay an outstanding judgment, final judgment based on any legal theory in favor of any insured depository institution, Federal deposit insurance fund, the FELIC, or the RTC.

(s) *Material obligation* means an obligation which, if not satisfied, would cause a loss of \$50,000 or more.

(t) *Member of the employee's immediate household* means a person who is related to the employee by blood, marriage, or adoption and who resides in the same household as the employee.

Resolution Trust Corporation

assigned to and performing only the responsibilities of the RTC in the FDIC's capacity as the exclusive manager of the RTC, but does not include a special government employee, the Director of the Office of Thrift Supervision, or any person employed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or any person employed by the RTC. The term does not include independent contractors retained by the RTC whose conduct is regulated by the RTC of this chapter.

(b) *Security* means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing or pension plan, or any other security or investment contract, voting trust certificate, or, in general, any interest or instrument commonly known as a security, but does not include a deposit.

(c) *Senior employee* means any individual member of the Board of Directors of the RTC any employee named or designated by the Director of the U.S. Office of Government Ethics pursuant to 18 U.S.C. 207(b)(1).

(d) *Special government employee* means any employee of the RTC, other than an independent contractor, serving the RTC with or without compensation, including the members of the National Advisory Board and the members of the Regional Advisory Boards, for a period estimated not to exceed 130 days during any 365-day period on a full-time or intermittent basis.

(e) *Subsidiary* means a company the voting stock of which is 50 percent or more owned or controlled by another company.

(f) *Substantial loss to the Federal deposit insurance funds* means a loss of more than \$50,000 to the funds maintained by a Federal deposit insurance agency for the protection of depositors.

(g) *Employee responsibility, counseling, and distribution of regulation*.

(h) *Each employee of special government employees of the RTC is responsible for being familiar with and complying with the provisions of this part.*

§ 1605.5

The Ethics Counselor and Deputy Ethics Counselor shall be responsible for counseling and guidance as to the statutes and regulations affecting employee responsibility and conduct, including interpretation of this part.

(b) The Ethics Counselor shall provide a copy of this part to each new employee or special government employee within 30 days of commencement of employment or engagement, and each such employee or special government employee shall complete and file the Declaration and Acknowledgment of RTC Standards of Conduct Regulation in accordance with its instructions. The Ethics Counselor shall annually distribute a reminder of the basic provisions of this part to each employee and each special government employee.

(c) An employee who believes that his or her assignment to a matter may result in a conflict of interest or the appearance of a conflict of interest shall report immediately all pertinent facts to his or her appropriate director.

§ 1605.4 Designation of Ethics Counselor, Alternate Ethics Counselor, and Deputy Ethics Counselor.

(a) The RTC's ethics program shall be coordinated and managed by the Ethics Counselor. The Executive Secretary of the FDIC shall act as the RTC's Ethics Counselor.

(b) The Assistant Executive Secretary (Ethics) of the FDIC shall act as the RTC's Alternate Ethics Counselor and shall act as the Ethics Counselor in the absence of the Ethics Counselor.

(c) The Ethics Counselor shall appoint one or more Deputy Ethics Counselors to whom the Ethics Counselor may delegate duties and responsibilities under this part. Duties and responsibilities so delegated may not be redelegated.

§ 1605.5 Sanctions and remedial actions.

(a) Any violation of this part by an employee or special government employee shall be cause for disciplinary or remedial action, which may be in addition to any penalty process. In addition, disciplinary action may include, but is not limited to, oral or written

X000762

§ 1605.6

warning or admonishment, reprimand, suspension, or removal from office, which action shall be taken in accordance with applicable law, executive order, and regulation.

(c) Remedial action, when appropriate, may be taken, but is not limited to, the removal of conflicting interests, change in assigned duties, or disqualification from a particular assignment or a particular matter.

(d) Unless an employee or special government employee requests review of an order of remedial action pursuant to § 1605.8 of this part such order shall be effective within 30 days after receipt of notice thereof, and disqualification shall take effect immediately. Any order of remedial action reviewed and approved pursuant to § 1605.8 of this part shall take effect immediately upon receipt of notice of the final determination of the Chairperson (or his or her designee).

§ 1605.8 Review of remedial actions.

When remedial action is ordered pursuant to § 1605.5 of this part, the affected employee or special government employee may request the Chairperson to review such order. Any request for review shall be made in writing within 20 days of receipt of notice of the order and shall contain a statement of reasons for such request. The Chairperson (or his or her designee) will promptly review the matter and will provide a written notice of his or her determination which determination shall be final.

Subject B—Ethical and Other Conduct and Responsibilities of RTC Employees

§ 1605.7 General rules.

RTC employees are expected to maintain unusually high standards of honesty, integrity, impartiality, and conduct and to avoid misconduct and conflict of interest, or the appearance of conflicts of interest. No employee shall engage in any prohibited activity prohibited by this part, which might result in, or create the appearance of, a conflict of interest. The prohibitions of this section do not, however, prevent employees, who are permanent employees of another executive department or agency being

12 CFR Ch. XVI (1-1-93 Edition)

(b) Giving preferential treatment to any person;

(c) Impeding the RTC's efficiency or economy;

(d) Losing complete independence or impartiality;

(e) Making an RTC decision outside official channels; or

(f) Adversely affecting the public's confidence in the integrity of the RTC.

§ 1605.9 Gifts, entertainment, favors, and loans.

(a) Except as provided in paragraph (b) of this section, no employee may solicit or accept for himself or herself or for another person, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or other thing of monetary value from a person who:

(1) Has or seeks contractual or other business or financial relationships with the RTC;

(2) Has interests that may be substantially affected by the performance of the duties of the employee's official duties; or

(3) Is an officer, director, or employee of any insured depository institution or of any professional, trade, or business association comprised of members who do or seek to do business with the RTC.^a

(b) The prohibitions of paragraph (a) of this section do not apply:

(1) To the solicitation or acceptance of anything of monetary value from a friend, parent, spouse, child, or other close relative where it is clear from the circumstances that personal or family relationships rather than the business of the persons concerned are the motivating factors;

(2) To the acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, etc.;

^a A professional, trade, or business association is defined as any organization whose members are regulated by any Federal banking agency, is itself a prohibited source of gifts, entertainment, favors, and loans for purposes of this section (see Office of Governmental Affairs, Federal Reserve Bank of Atlanta, Acceptance of Food and Refreshments by Executive Branch Employees (1987)).

Resolution Trust Corporation

dars, and other items of nominal value:

(3) Except as otherwise provided in § 1605.16 of this part, to the acceptance of loans from insured depository institutions or other financial institutions on the customary terms and conditions offered to the public;

(4) To the acceptance of food, refreshments, and accompanying entertainment of nominal value on infrequent occasions in the ordinary course of a conference, meeting, or other function at which an employee is properly in attendance in his or her capacity; and

(5) To the acceptance of food, refreshments, and accompanying entertainment of nominal value offered in the course of a group function or widely attended gathering of mutual interest to the government and the private sector, such as receptions and informational programs sponsored or hosted by universities, educational associations, the financial services industry, technical and professional associations, and those that have as members firms doing business with the RTC, international organizations, or government entities where it has been determined that attendance is in the interest of the RTC and is related to its mission, in accordance with written guidelines issued by the Ethics Counselor.

(c) Whenever an employee receives a gift or other item of monetary value the acceptance of which is prohibited by paragraph (a) of this section, or whenever a gift or other item of monetary value is received from a source other than that described in paragraph (a) of this section, the employee, because of the employee's official duties or in conjunction with official duties carried out by the employee, shall promptly notify the Ethics Counselor within ten days of receipt of such gift or item. The gift or item shall be promptly returned to the donor or otherwise disposed of as directed by the Ethics Counselor. The cost of returning such gift or item shall be borne by the RTC. (See 18 U.S.C. 209.)

(d) An employee may not solicit a contribution from another employee for a gift to an official superior, make

§ 1605.9

a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself or herself, unless it is a voluntary gift or donation of nominal value made on a special occasion such as marriage, illness, or retirement. (See 5 U.S.C. 7351.)

(e) An employee may not request or accept a gift, present, or decoration from a foreign government, except as permitted by law. (See 5 U.S.C. 7342.)

§ 1605.9 Travel expenses.

(a) Expenses of travel, lodging, and subsistence incurred by an employee while on official duty shall be paid for or reimbursed by the RTC (in accordance with the FDIC's General Travel Regulations), and an employee shall not accept payment or reimbursement for such expenses from any private source.

(b) On rare occasions where there is no practical alternative to acceptance, an employee may accept travel, lodging, or subsistence from a private source while on official duty. The employee must report such acceptance, value, and circumstances thereof to the appropriate director within 30 days of such acceptance. When appropriate, the RTC will reimburse the private source for the fair market value of such travel, lodging, or subsistence.

(c) For the purpose of this section, "subsistence" does not include food or refreshments accepted on infrequent occasions in the ordinary course of an official function or a widely attended gathering as permitted by § 1605.8 (b)(4) and (b)(5) of this part.

(d) Notwithstanding the provisions of 5 U.S.C. 4111, the RTC may and an employee shall not, without the approval of the appropriate superior, who shall have consulted with the Ethics Counselor, accept travel, lodging, or subsistence when the donor is an organization which is exempt from taxation under 26 U.S.C. 501(c)(3), and acceptance does not result in, or create the appearance of, a conflict of interest. The provisions of this section do not, however, prevent employees, who are permanent employees of another executive department or agency being

§ 1605.10

utilized by the RTC on a reimbursable basis for expenses for travel, lodging, or subsistence from a donor who is exempt from taxation under 26 U.S.C. 501(c)(3) where acceptance would be consistent with the other executive department's or agency's travel policies and regulations.

(e) When an employee is not on official duty and there is no payment or reimbursement by the RTC for expenses, the employee may accept payment or reimbursement from a private source where acceptance is compatible with the purposes of this part and does not present a conflict of interest or the appearance thereof.

(f) The provisions of this section do not prohibit or require a report of the acceptance of travel, lodging, or subsistence provided by family members or personal friends.

§ 1605.16 Use of official information.

(a) Except as permitted in § 1605.11 of this part, an employee may not, directly or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to further any financial interest or to further a private interest.

(b) An employee may not maintain, disclose, or otherwise use personal information in a manner which violates the Privacy Act of 1974, 5 U.S.C. 552a.

(c) An employee may not disclose confidential business information obtained in the course of his or her employment or official duties except as authorized by law. (See 16 U.S.C. 1606.)

§ 1605.11 Lectures, speeches, and manuscripts.

(a) No employee shall publish any material or speak before insured depository institutions or public organizations on matters involving the RTC unless the employee receives prior approval and prior clearance of material to be published by the Executive Director of the RTC (or his or her designee). An employee shall not use his or her official title without specific written approval by the appropriate director.

Resolution Trust Corporation

law, daughter-in-law, brother-in-law, or sister-in-law.

(2) An official is any employee who has authority to appoint, employ, promote, or advance employees or to recommend anyone for appointment, employment, promotion, or advancement at the Oversight Board, the RTC, or the FDIC.

(3) A supervisor is any employee who is required to exercise independent judgment to appoint, employ, promote, advance, assign, direct, reward, transfer, suspend, discipline, remove, adjust, grievances, or furlough any person or to recommend any such action.

(b) An RTC official may not—

(1) Appoint, employ, promote, or advance any relative to a position at the Oversight Board, the RTC, or the FDIC;

(2) Advocate a relative's appointment, employment, promotion, or advancement; or

(3) Appoint, employ, promote, or advance a relative of another Oversight Board, RTC, or FDIC official if the official has advocated the relative's appointment, employment, promotion, or advancement.

(c)(1) No employee may be a supervisor of any relative.

(2) Whenever any employee becomes a supervisor of a relative, the employee shall report in writing that fact to the appropriate director. The appropriate director, in consultation with the FDIC's Office of Personnel Management, the RTC's Personnel Management, the Ethics Personnel Branch Chief and the Ethics Counselor, shall determine whether the relative's position may be removed from the scope of the supervisor's authority, taking into consideration the nature of the supervisor's position, the operational needs of the division, and the potential for conflicts of interest or the appearance thereof. If it is determined that it is not feasible to remove the relative's position from the scope of the supervisor's authority, the appropriate director, the Director of the FDIC's Office of Personnel Management, and the Ethics Counselor shall determine whether the relative may be assigned to another position.

§ 1605.14

tion at the RTC which is outside the scope of the supervisor's authority.

§ 1605.13 Use of property and resources owned or controlled by the RTC.

An employee shall not, directly or indirectly, use or allow the use of any property or resources owned or controlled by the RTC (including, but not limited to, personnel, equipment, leased property, or property which the RTC holds in its capacity as receiver, liquidator, liquidating agent, or conservator of the assets of an insured depository institution) for other than officially approved activities. An employee shall not use RTC property, including equipment, supplies, and other property entrusted or issued to the employee.

§ 1605.15 Indebtedness, gambling, and other conduct.

(a) *Indebtedness.* An employee is expected to meet all just financial obligations, whether imposed by law or contract. For the purpose of this section, a "just financial obligation" is one acknowledged by the employee or reduced to judgment by a court or one imposed by law such as federal, state, or local taxes. An employee who has difficulty in meeting this or her financial obligations shall consult with the FDIC's Office of Personnel Management. This section does not require the RTC to determine the validity or amount of any debt which is the subject of dispute between the employee and an alleged creditor.

(b) *Gambling.* An employee shall not participate in any gambling activity, including use of gambling devices, lotteries, pools, games for money or property, or numbers tickets, while on duty or the government or while on duty for the RTC.

(c) *Crimes and dishonesty.* An employee shall not engage in criminal, dishonest, or otherwise illegal activities or conduct which would reflect unfavorably on the RTC. Any employee who has information indicating that another employee is engaging or has engaged in any criminal conduct or is violating or has violated any of the provisions of this part is encouraged to convey such

12 CFR Ch. XVI (1-1-93 Edition)

for, an example of title use where approval is normally appropriate is where the employee's Government position is referred to in biographical information provided in conjunction with lectures, speeches, and manuscripts.

(c) An employee shall not use in any teaching, lecturing, speaking, or writing engagement information obtained as a result of his or her RTC employment unless the information is available to the general public. The Executive Director of the RTC (or his or her designee) shall determine the appropriateness of the information for public interest.

(d) Except as provided in § 1605.8(b)(2) of this part, no employee may receive any compensation or other thing of monetary value for any speech, lecture, publication, or similar engagement, the subject matter of which relates specifically to matter involving the RTC or contains information that is not otherwise available to the general public.

(e) No employee may accept an honorarium of more than \$1,000 in any appearance, speech, or article in connection with an RTC related activity. No employee may accept an honorarium in connection with any appearance, speech, or article in connection with RTC-related matters. (See 2 U.S.C. 441.)

(f) No employee who is appointed by the President to a full-time noncareer position in the RTC shall receive any earned income for any outside employment or activity performed during that Presidential appointment. (See E.O. 12874, section 102.)

§ 1605.12 Employment by RTC of relatives.

(a) For the purposes of this section: (1) A relative is any person related to an Oversight Board official, an RTC official, or an employee who is a spouse, child, stepchild, brother, sister, stepbrother, stepdaughter, half-brother, half-sister, spouse, niece, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

X000765

§ 1605.16

employee has an economic impact on any provider of credit.

(b) An individual member of the Board of Directors (except the Controller of the Currency and the Director of the Office of Thrift Supervision), any other employee assigned to the Washington office and any employee in the Regional or Consolidated Office who, on behalf of the RTC, has contracted for or participated personally and substantially in any matter involving an assisted or assuming entity, insured depository institution, or other provider of credit may not, directly or indirectly, accept or become obligated on any extension of credit from such entity for so long as it remains an assisted or assuming entity, or for one year following the termination of its involvement in the matter with that entity.

(c) The Director of the Resolution and Operations Division, the holder of any position immediately subordinate thereto, a managing agent of an insured depository institution in conservatorship, or any other covered employee of the RTC who participates in the management of an insured depository institution in conservatorship is disqualified from participating in any matter (including any audit, visitation, or investigation) involving or from otherwise taking any action on behalf of the RTC with regard to any insured depository institution, financial institution, or person that has, either directly or indirectly, extended credit to such employee. Every other covered employee is disqualified from taking any action on behalf of the RTC with regard to any insured depository institution, financial institution, or other person that has, either directly or indirectly, extended credit to such employee in excess of \$10,000. The appropriate director, in consultation with the Ethics Counselor, may also extend such disqualification to affiliates of such creditors.

(d) If the adoption of this regulation, change in marital status, commencement of employment, reassignment to another division or location, or action affecting the status of the

Resolution Trust Corporation

(f) Notwithstanding the restrictions of this section, an employee may assume a mortgage loan made by a prohibited creditor under the following circumstances:

(1) The loan is for the employee's personal residence; (2) The employee is unable to arrange without a financial hardship a loan from a nonprohibited creditor; (3) The terms of the assumption are no more favorable than those made available to the general public by the same creditor;

(4) The employee receives the prior approval of the appropriate director, who shall have consulted with the Ethics Counselor, or in the case of an employee of the Resolution and Operations Division, the prior concurrence of the Ethics Counselor; and

(5) The employee is disqualified from participating in any decision, examination, audit, or other action having an impact on the creditor.

(g)(1) An extension of credit to an employee's spouse or dependent child shall constitute an extension of credit to the employee unless:

(i) The loan is made to the spouse or her own credit and without the employee's being a party to the credit instrument as co-maker, endorser, or guarantor;

(ii) The loan is supported by the spouse's or dependent child's own income or means so that neither the creditor nor the spouse nor dependent child will look to the employee, his or her income, or his or her property for the payment thereof; and

(3) No employee may participate in the loan, the ability and means to meet the loan obligation at maturity.

(4) Even though an extension of credit to a spouse or dependent child is, by virtue of paragraph (g)(1) of this section, not deemed to be an extension of credit, an employee shall be disqualified from participating in any decision, examination, audit, or other action having an impact on the creditor to the same extent as if the employee

§ 1605.17

were obligated on the extension of credit.

§ 1605.17 Securities of insured depository institutions.

(a) While employed by the RTC, an employee may not purchase, own, or control, directly or indirectly, any securities of an insured depository institution or affiliate thereof, except as permitted in this section.

(b)(1) Except as provided in paragraph (b)(2) of this section, an employee (other than a member of the Board of Directors) may own or control securities of an insured depository institution or affiliate thereof whenever:

(i) Ownership or control was acquired prior to commencement of RTC employment, through a change in marital status, or through circumstances beyond the employee's control, such as inheritance, gift, or merger, acquisition or other change in corporate ownership;

(ii) The employee makes full, written disclosure on the prescribed form to the Ethics Counselor, pursuant to § 1605.25 of this part, within 30 days of commencing employment or acquiring the interest; and

(iii) The employee is disqualified from participating in any decision, examination, audit, or other action having an impact on the creditor or the insured depository institution or affiliate.

Provided that the Ethics Counselor, in consultation with the appropriate director, may determine that disqualification is not necessary because the employee's interest is too inconsequential to affect the integrity of the employee's services to the RTC (pursuant to § 1605.15(f) of this part).

An employee may own or control additional securities which result from a stock split, stock dividend, or the exercise of preemptive rights arising out of the ownership of such securities.

(2) The Ethics Counselor may require that an employee divest his or her interest in securities if disqualification is permitted under paragraph (b)(1) of this section whenever disqualification might result in a substantial impairment of the employee's ability to per-

12 CFR Ch. XVI (1-1-93 Edition)

creditor results in an extension of credit prohibited by paragraphs (b) and (c) of this section, such extension of credit may be retained by the employee if it is liquidated under its original terms without renegotiation. If an otherwise prohibited extension of credit is retained in accordance with this paragraph, the employee will be disqualified from participating in any decision, examination, audit, or other action having an impact on the creditor and report his or her retention in writing to the appropriate director and Ethics Counselor.

(e)(1) An employee, other than an employee described in paragraph (b) of this section, otherwise required to liquidate a nonconforming extension of credit under its original terms, may request permission to renegotiate the terms of the extension of credit under paragraph (b) of this section otherwise required to liquidate a nonconforming extension of credit under its original terms may request review and concurrence by the Ethics Counselor to renegotiate such a loan. Any such request shall be made in writing to the appropriate director and Ethics Counselor. The Ethics Counselor may, at the discretion of the appropriate director, extend the time for an employee described in paragraph (b) of this section to the Ethics Counselor, stating:

(i) The purpose of the renegotiation; (ii) The terms and conditions of the original loan;

(iii) The terms and conditions now available to the general public;

(iv) The terms and conditions now offered the employee;

(v) What action the employee has taken to move the loan to an otherwise nonprohibited creditor; and

(vi) The financial hardship, if any, denial of the request will cause.

(2) No employee may renegotiate a loan without the prior written approval of the appropriate director and the Ethics Counselor or in the case of an employee described in paragraph (b) of this section without the prior review and concurrence by the Ethics Counselor.

*Such actions include, but are not limited to, mergers, acquisitions, transactions under authority of the Federal Reserve Act (12 U.S.C. 1823) or similar actions beyond the employee's control.

X000766

§ 1605.18

form his or her RTC duties and responsibilities.

(c) An employee may have an indirect interest in securities of an insured depository institution or affiliate thereof which arises through ownership of shares (or other investment units) of publicly held holding companies, mutual funds, or investment trusts but only if: (1) The holding company, mutual fund, or investment trust consists primarily of securities of entities other than depository institutions; and

(2) The employee does not own or control 5 percent or more of the shares (or other investment units) of the holding company, mutual fund, or investment trust.

Such an indirect interest in securities of an insured depository institution or affiliate is deemed too inconsequential to affect the integrity of the employee's services to the RTC (pursuant to § 1605.15(f) of this part).

(d)(1) Interests of an employee's spouse or dependent child shall be considered interests of the employee unless:

(i) The interest is solely the financial interest and responsibility of the spouse or dependent child;

(ii) The interest is not in any way, past or present, derived from the income, assets, or other activity of the employee; and

(iii) Any financial or economic benefit to the spouse or dependent child is for the spouse's or dependent child's personal use.

(iv) Even though an interest of a spouse or dependent child is, by virtue of paragraph (d)(1) of this section, not deemed to be an interest of an employee, as a matter of policy the employee will be disqualified from participating in any decision, examination, audit, or other action having an impact on that interest to the same extent as if the interest were that of the employee.

§ 1605.18 Other investments.

(a) While employed by the RTC, an employee may not purchase, own, or control, directly or indirectly, any securities which are issued on behalf of the RTC to finance holdings of assets acquired in the resolution or liquidation of insured depository institutions

12 CFR Ch. XVI (1-1-93 Edition)

by the RTC or to fund the operations of any bridge bank or other institution organized by the RTC under sections 21A(b)(11)(A) (iv) or (v) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(b) While employed by the RTC, an employee may not purchase securities of, or otherwise invest in, any depository institution or insured depository institution offered for sale by the RTC.

(c) While employed by the RTC, an employee may not knowingly acquire, directly or indirectly, any financial interest which conflicts, or appears to conflict, with his or her official duties and responsibilities.

(d)(1) Except as provided in paragraph (d)(2) of this section, an employee may own or control investments described in paragraph (c) of this section whenever:

(i) Ownership or control was acquired prior to commencement of RTC employment; through a change in marital status, or through circumstances beyond the employee's control, such as inheritance, gift, or merger, acquisition or other change in corporate ownership;

(ii) The employee makes full, written disclosure on the prescribed form to the Ethics Counselor, pursuant to § 1605.26 of this part, within 30 days of commencing employment or acquisition of the interest;

(iii) The employee is disqualified from participating in any decision or other action which could have a direct and predictable impact on the employee's financial interest; *Provided*, that the Ethics Counselor, in consultation with the appropriate director and in compliance with rules to be promulgated by the U.S. Office of Government Ethics, may determine that disqualification is not necessary because the employee's interest is inconsequential to affect the integrity of the employee's services to the RTC.

(2) The Ethics Counselor may require that an employee divest his or her ownership or control of investments otherwise permitted by paragraph (d)(1) of this section whenever disqualification might result in a sub-

Resolution Trust Corporation

stantial impairment of the employee's ability to perform his or her RTC duties and responsibilities.

(e)(1) An employee may have an indirect interest in an otherwise prohibited investment which arises through ownership of shares (or other investment units) of a publicly held company, mutual fund, or investment trust which has a broadly diversified portfolio not specializing in any particular industry and which is widely held and is not under the employee's control or a limited partnership interest in a large public partnership (i.e., one having at least 35 partnership interests) and has at least 25% of the gross revenues of the limited partnership derive from businesses with the RTC (pursuant to § 1605.15(f) of this part).

(2) The employee is disqualified from participating in any decision or other action having a direct and predictable impact on the employee's financial interest; *Provided*, that the Ethics Counselor, in consultation with the appropriate director and in compliance with rules to be promulgated by the U.S. Office of Government Ethics, may determine that disqualification is not necessary because the employee's interest is inconsequential to affect the integrity of the employee's services to the RTC.

(f)(1) Interests of an employee's spouse or dependent child shall be considered interests of the employee unless:

(i) The interest is solely the financial interest and responsibility of the spouse or dependent child;

(ii) The interest is not in any way, past or present, derived from the income, assets, or other activity of the employee; and

(iii) Any financial or economic benefit to the spouse or dependent child is, by virtue of paragraph (f)(1) of this section, not deemed to be an interest of a spouse or dependent child.

(iv) Even though an interest of a spouse or dependent child is, by virtue of paragraph (f)(1) of this section, not deemed to be an interest of an employee, as a matter of policy the employee will be disqualified from participating in any decision or other action having an impact on that interest to the same extent as if the interest were that of the employee.

§ 1605.23

§ 1605.19 Purchase of assets of institutions in conservatorship or receivership.

(a) An employee, the employee's spouse or dependent child, or members of the employee's immediate household shall not, directly or indirectly, purchase any property which the RTC holds in its capacity as conservator of an insured depository institution or of an insured depository institution, or liquidating a receiver, liquidator, or liquidating conservator, assets of an insured depository institution, regardless of how the property is sold.

(b) An employee who is involved in the disposition of conservatorship or receivership assets shall disqualify himself or herself from participation in the disposition of such assets when the employee becomes aware that any relative, or any organization or partnership with which the employee, the employee's spouse or dependent child is associated, has submitted a bid for the purchase of such assets. The employee shall advise his or her immediate supervisor and the Ethics Counselor in writing of the self-disqualification.

(c) An employee shall not, directly or indirectly, use or release information regarding the sale or disposition of assets except as mandated by the employee's official responsibility to liquidate such assets and only as prescribed in guidelines applicable to such sale or disposition.

§ 1605.20 Purchase of RTC property.

(a) An employee, the employee's spouse or dependent child, or members of the employee's immediate household shall not, directly or indirectly, purchase any property which the RTC holds in its corporate capacity unless:

(1) The property has been declared excess property and is sold in accordance with the standards and procedures prescribed by the Director of the FDIC's Division of Accounting and Corporate Services; and

(2) The property is sold by means determined by the Director of the FDIC's Division of Accounting and Corporate Services, which assure that

X000767

§ 1605.21

the selling price is the property's fair market value.

(b) In no case shall an employee, the employee's spouse or dependent child, or members of the employee's immediate household directly or indirectly purchase any property from the RTC.

(1) The employee is employed in the Facilities Management and Operations Section of the FDIC's Division of Accounting and Corporate Services or is directly involved in the disposition of excess property.

(2) The property was last under the control or supervisory responsibility of the employee (except in the case of property sold by sealed bid or at public auction).

(3) The employee relied upon information regarding the property obtained by the employee in the course of his or her employment with the RTC (other than knowledge of the proposed sale of the property), which is not available to the general public, or

(4) The employee is the head of the last known office using the property (except in the case of property sold by sealed bid or at public auction).

§ 1605.21 Purchase of assets of insured depository institutions.

An employee, the employee's spouse or dependent child, or a member of the employee's immediate household shall not, directly or indirectly, purchase an asset (for example, real property, automobiles, trucks, mobile homes, or repossessed goods) of an insured depository institution unless the purchase is made at public auction or is offered to the general public at the same price, or is sold by other means that assure that the selling price is the asset's fair market value. In no event shall an employee, an employee's spouse or dependent child, or a member of the employee's immediate household purchase an asset from any insured depository institution in reliance on information obtained in the course of the employee's performance of his or her official duties or from any other source available to the general public. Employees have a responsibility to consult with the Ethics Counselor as to the propriety of the proposed purchase.

Resolution Trust Corporation

(3) Active participation in or conduct of a business dealing with or related to real estate including, but not limited to, mortgage, management, and sales, property insurance, and appraisal services.

(b) An employee shall not engage in outside employment or other activity, with or without compensation, which would conflict with the employee's duties as an employee of the RTC.

(c) An employee shall not accept any money or anything of monetary value from a private source as compensation for the employee's services to the RTC. (See 18 U.S.C. 208.)

(d) An employee shall not, directly or indirectly, receive compensation for representational services rendered by himself or herself or another before an agency of the Federal or District of Columbia Government on matters in which the United States has an interest. (See 18 U.S.C. 203.)

(e) Except as provided in paragraph (f) of this section, an employee shall not represent anyone before an agency of the United States Federal Government, including the Ethics Counselor, in connection with compensation, in matters in which the United States has an interest other than in the proper discharge of the employee's official duties. (See 18 U.S.C. 203.)

(f) An employee must obtain the prior written approval of the Ethics Counselor in order to represent a parent, spouse, child, or person for which he or she serves as a fiduciary, or in which he or she is a trustee or personal fiduciary, with or without compensation. (See 18 U.S.C. 206.)

(g) This section does not preclude an employee from participating in the activities of charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civic organizations, so long as participation does not violate § 1605.23 of this part of 18 U.S.C. 203 or 206, including by financial participation, if not prohibited by law.

(h) Any employee who engages in, or intends to engage in, outside employment or activity must obtain the prior written approval of the appropriate director, who shall consult with the Ethics Counselor as to whether such

employment or activity is compatible with the purposes of this part.

§ 1605.25

§ 1605.25 Employment of family members by persons other than the RTC.

(a) In order to avoid a conflict of interest or the appearance of a conflict, a covered employee shall report to the appropriate director within 30 days after the employment of the employee's spouse, child, parent, brother, sister, or member of the employee's immediate household by:

(1) An insured depository institution or its affiliate;

(2) A firm or business with which the employee's knowledge, the RTC has a contractual or other business or financial relationship; or

(3) A firm or business which, to the employee's knowledge, is seeking a business or contractual relationship with the RTC.

(b) Generally, a covered employee will not be assigned to any matter involving the insured depository institution unless the appropriate director, in consultation with the Ethics Counselor, makes the prior determination that the nature of the family member's employment makes it unlikely that the employee's services to the RTC will be affected by participation in the matter. In making determinations under this section, significant weight shall be given to the policy-making character of the family member's position, the circumstances, positions which the employee occupies, and the nature of the employee's policy-making character would not require disqualification.

Subpart D—Reports of Interest in Insured Depository Institution Securities, Interest in RTC Decision, and Employment Upon Resignation; Statements of Employment and Financial Interests; Financial Disclosure Reports

§ 1605.25 Report of interest in insured depository institution securities.

All employees must report, on the prescribed form, direct or indirect ownership of securities of insured depository institutions within 30 days of commencement of employment, and

12 CFR Ch. XVI (1-1-93 Edition)

§ 1605.22 Providing goods or services to the RTC.

An employee, the employee's spouse or dependent child, or members of the employee's immediate household shall not, directly or indirectly, provide any goods or services for compensation to the RTC either in its corporate capacity or in its capacity as conservator, receiver, liquidator, or liquidating agent of the assets of an insured depository institution unless the Executive Director of the RTC determines, in accordance with the provisions of § 1605.23(d) and (e) of this part, that standards and procedures approved by the Board of Directors, that it is in the best interest of the RTC to acquire goods or services from such a person. For the purpose of this section, the term "services" does not include services as required by the employee's position with the RTC.

§ 1605.23 Outside employment and other activity.

(a) An employee shall not engage in employment or other activity outside the scope of his or her official duties which is not compatible with the full and proper discharge of the employee's duties and responsibilities to the RTC. Employment or activity which is not compatible with the employee's duties and responsibilities to the RTC includes, but is not limited to, that which results in, or creates an appearance of, a conflict of interest or impairs the employee's physical or mental capacity to perform his or her duties and responsibilities of his or her position with the RTC. Such employment or activity may involve:

(1) Service, with or without compensation, as an organizer, incorporator, director, officer, trustee, or representative of, or advisor or consultant to, or in any other capacity with, any insured depository institution, including a credit union, except the FDIC Employee Federal Credit Union;

(2) Service, with or without compensation, in any capacity with an investment fund, mutual fund, insurance company, stockbroker, underwriter, or any other person engaged in providing financial services; or

X000768

§ 1605.28

(c) Excepted information. This section does not require a covered employee to submit on a statement of employment and financial interests any information relating to the covered employee's connection with, or interest in, a professional society, or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving scientific or technical information, and the government are deemed business enterprises and are required to be included in a covered employee's statement of employment and financial interests.

(f) Confidentiality of statements. Statements of employment and financial interests shall be held in confidence. Statements shall be received, reviewed, and retained in the office of the reviewing official, who shall be responsible for maintaining the statements in confidence. The secretary of the reviewing official shall have such access as necessary and then only to covered employees' statements. The Ethics Counselor shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purposes of this part. Information in a statement will not otherwise be disclosed except as the Chairperson or the Director of the U.S. Office of Government Ethics may determine for good cause shown.

(g) Review of statements. (1) Annual statements submitted under this section will be reviewed by the appropriate reviewing official no later than two months following the filing of the statement.

(2) Whenever a statement or other information indicates a possible conflict between the interest of a covered employee and the performance of his or her service to the RTC:

(i) The reviewing official shall investigate the matter and allow the covered employee a reasonable opportunity, orally and in writing, to explain why he or she does not believe a conflict or appearance of a conflict exists; and

Resolution Trust Corporation

90 days of December 31, need not submit another statement for such reporting period.

(2) The Ethics Counselor shall notify covered employees of the obligation to file annual statements and provide a copy of the prescribed reporting form no later than January 30 of each year with instructions in accordance with paragraph (b)(5) of this section not later than February 28.

(3) Covered employees commencing employment in or reassigned or promoted to positions, the incumbents of which submit statements of employment and financial interests, shall file statements within 30 days after commencement of employment, reassignment, or promotion.

(4) Notwithstanding any other provision of this section, the filing of a statement may be required prior to employment in, or reassignment or promotion to, executive level positions and certain other senior positions.

(5) Statements required under this section shall be submitted to the appropriate reviewing official.

(c) Financial interests of spouse and dependent child. For the purpose of this section, the financial interests of the spouse and dependent child of a covered employee are considered an interest of the covered employee unless:

(1) The interest is solely the financial interest and responsibility of the spouse or the dependent child, and the covered employee has no knowledge of it.

(2) The interest is not in any way, past or present, derived from the income, assets, or activities of the covered employee; and

(3) The covered employee neither derives, nor expects to derive, any financial or economic benefit from the interest.

(d) Information not known by covered employee. If any information required to be included on a statement of employment and financial interests, including holdings placed in trust, is not known to a covered employee but is known to another person, the covered employee shall request that other person to submit information on his or her behalf.

12 CFR Ch. XVI (1-1-93 Edition)

divisional Board members (except persons serving in such capacities) when the Individual Board members or the Board of Directors are acting as employees of the FDIC or unless otherwise subject to the regulations of other federal agencies;

(2) Holders of the positions immediately subordinate to the Executive Director of the RTC, or the Director of a division or office;

(3) Branch or comparable office holders;

(4) Employees at or above the grade 8 level in job series 1180, 301, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

(5) Employees at or above the grade 9 level who evaluate, recommend, purchase or contract for equipment, materials, and services;

(6) Persons employed by the RTC as attorneys;

(7) Internal auditors and investigators at or above the grade 5 level;

(8) Veterans' assistants and designees appointed to any RTC standing committee;

(9) The Alternate Ethics Counselor and Deputy Ethics Counselors; and

(10) The holders of any other positions determined by the Ethics Counselor to require the incumbents to report employment and financial interests in order to carry out the purposes of law, executive order, this part, or the RTC report on prohibited activities.

(11) The RTC report on prohibited activities shall be subject to the prior concurrence of the U.S. Office of Government Ethics. Such positions may include, but are not limited to, those the incumbents of which are responsible for making decisions or taking actions with respect to contracting or procurement, administering or monitoring grants or awards, regulating or auditing a primary business activity, enterprise, or other activities which have an economic impact on an insured depository institution or other enterprise.

(b) Submission of statements. (1) Covered employees shall annually file statements of employment and financial interests with information as of December 31. Covered employees who have commenced employment within

§ 1605.26

within 30 days of acquiring the interest. If acquired subsequent to employment in accordance with § 1605.17 of this part, or if the interest was previously acquired, within 30 days of the entity's becoming an insured depository institution.

(2) Report of interest in RTC decision.

Except for interests reported in accordance with § 1605.17 and 1605.25 of this part, a covered employee's financial interest (other than a deposit or indebtedness) in an insured depository institution or other entity that may be affected by his or her participation in an RTC decision must report that interest to the Ethics Counselor on a prescribed form. Reports are to be made within 30 days of commencement of employment or acquisition of the interest, and must be submitted to the Ethics Counselor or, if the covered employee is not an insured depository institution's or other entity's becoming subject to an RTC decision. Reports filed under this section shall be treated as confidential. Information in a report shall be disclosed only as necessary to carry out the purposes of this part or as the Chairperson may determine for good cause shown.

(3) Report of employment upon resignation.

Each covered employee shall report to the Ethics Counselor on a prescribed form his or her resignation to accept employment in the private sector. Such report shall include pertinent information regarding the prospective employment and shall be made as soon as possible but in no event less than two weeks prior to the effective date of resignation.

(4) Statement of employment and financial interests.

(a) Employees required to file. Unless they file statements pursuant to § 1605.29 of this part, the following employees shall be deemed covered employees for the purpose of filing statements of employment and financial interests pursuant to this section:

(1) Individuals who, as of the date of filing, are or have been, or are to be, or are to become, members of the Board of Directors or to be

covered employees for the purpose of filing statements of employment and financial interests pursuant to this section.

(2) Individuals who, as of the date of filing, are or have been, or are to be, or are to become, members of the Board of Directors or to be

X000769

§ 1605.29

(U) The Ethics Counselor shall attempt to resolve the matter. If the matter cannot be resolved within 60 days, the information concerning the conflict or the appearance of a conflict shall be reported to the Chairperson for resolution.

(h) *Effect on other reporting requirements.* The statements of employment and financial interests required of covered employees are in addition to, and not in lieu of, any other reporting required of any similar requirement imposed by law or regulation.

§ 1605.30 Financial Disclosure Reports under the Ethics in Government Act of 1978.

Individual Board members (except the Comptroller of the Currency and the Director of the Office of Thrift Supervision), employees at or above the RTC's Executive Level I, and employees whose positions are excepted from competitive service by reason of being of a confidential or policymaking character (unless otherwise exempted by the U.S. Office of Government Ethics) must file:

- (a) Financial Disclosure Reports (SF 278) in accordance with the requirements of the Ethics in Government Act of 1978 and regulations of the U.S. Office of Government Ethics, 5 CFR part 2634; and
- (b) Confidential Reports of Indebtedness reporting all indebtedness to any affiliates thereof, not otherwise reportable in accordance with the requirements of the Ethics in Government Act of 1978. Such statements shall be filed with the Ethics Counselor on or before May 15 for the preceding calendar year ended December 31.

Subpart E—Limitations on Post Employment Activities of Former Employees, Including Special Government Employees

§ 1605.30 Limitations on representation.

(a) No former employee or special government employee, after terminating government employment, shall knowingly act as agent or attorney for, or otherwise represent any other person, except the United States, in

Resolution Trust Corporation

such as rulemaking, proposed legislation or regulations, and the formulation of general policy standards or objectives but shall apply to rulemaking having a direct and predictable effect on a certain party or group of parties. (See 5 CFR 2637.201.)

(e) For a period of one year after termination of employment with the RTC, no former senior employee (other than a special government employee) shall, for any reason, knowingly or otherwise represent any person, except the United States, in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to the RTC or any of its officers or employees, in connection with any particular government matter, whether or not involving a specific party, which is pending before the RTC, or in which the RTC has a direct and substantial interest. (See 18 U.S.C. 207(c) and 5 CFR 2637.204.)

§ 1605.31 Limitations on aiding or advising.

(a) For a period of one year after termination of employment with the RTC, no former employee, including a former senior employee, shall knowingly act as agent or attorney for, or otherwise aid or advise any other person (except the United States) concerning any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, or other particular matter in which, to the best of the former employee's knowledge, the United States is a party or has a direct and substantial interest; that involves the same specific party or parties; and in which matter he or she participated personally and substantially while an employee.

(b) For purposes of paragraph (a) of this section, the limitations on aiding and assisting shall only apply to particular matters about which the former employee had access to information while employed from disclosure under 5 U.S.C. 552 and shall not be exempt by the RTC or the Over-

§ 1605.34

sight Board, the basis for the aid or advice.

§ 1605.32 Consultation as to propriety of appearance before the RTC.

Any former employee who wishes to appear before the RTC on behalf of any person other than the United States, or an agency thereof, at any time after termination of employment with the RTC, may consult the Ethics Counselor as to the propriety of such appearance.

§ 1605.33 Suspension of appearance privilege.

Any former employee or special government employee who knowingly fails to comply with the provisions of this subpart may be prohibited from making an appearance before, or an oral or written communication with, the RTC or the Oversight Board for such period of time as provided in procedures to be adopted by the RTC and the Oversight Board.

Subpart F—Ethical and Other Conduct and Responsibilities of Special Government Employees

§ 1605.31 General.

(a) Special government employees are those serving the RTC, by performing temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days.

(b) The rules of conduct contained in subparts A, B, C, D, and E of this part shall also apply to special government employees insofar as their employment with the RTC is discussed in this subpart. However, the prohibition in § 1605.14(c) of this part, concerning active participation in political management or campaigns (5 U.S.C. 7321 et seq., the Hatch Act), only applies to special government employees on days that they serve the RTC. Further, the prohibition in § 1605.23 of

* All members of the National and Regional Advisory Boards are considered to be special government employees for purposes of this part.

X000770

§ 1605.35

this part, concerning outside employment, shall not apply to members of the National or Regional Advisory Boards.

§ 1605.35 Applicability of 18 U.S.C. 203 and 205.

(a) The prohibitions in 18 U.S.C. 203 and 205 applicable to special government employees are less stringent than those applicable to regular government employees. These two sections in general operate to preclude a regular government employee, except in the discharge of his or her official duties, from representing another person before a department, agency or court, whether with or without compensation, in a matter in which the United States is a party or has a direct and substantial interest. However, the following major restrictions upon a special government employee:

(1) He or she may not, except in the discharge of his or her official duties, represent anyone else (or receive compensation from another's representation) before a court or government agency in a matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he or she is personally involved, directly or indirectly and substantially in the course of his or her government employment. What constitutes personal and substantial participation in a matter is discussed in § 1605.37(b) of this part.

(2) He or she may not, except in the discharge of his or her official duties, represent anyone else (or receive compensation from another's representation) in a matter involving the United States is a party or has a direct and substantial interest and which is pending before the agency he or she serves. However, this restraint is not applicable if he or she has served the agency no more than 60 days during the past 365 days. He or she is bound by the restraint, if applicable, regardless of whether the matter is one in which he or she has ever participated personally and substantially.

(b) These restrictions prohibit both paid and unpaid representation and apply to a special government employee

Resolution Trust Corporation

administrative or operating authority, either intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct action in the RTC or the Oversight Board.

§ 1605.37 Applicability of 18 U.S.C. 207.

(a) Section 207 of title 18 of the U.S. Code applies to individuals who have been appointed to the RTC or the Oversight Board. It prevents a former government employee from representing another person in connection with certain matters (or making oral or written communications, with the intent to influence, to the government or a court) in which he or she participated personally and substantially on behalf of the government. The matters are those involving a specific party or parties in which the United States is also a party or has a direct and substantial interest. What constitutes personal and substantial participation in a matter is discussed in § 1605.37(b) of this part. In addition, section 207 of title 18 of the U.S. Code prohibits a former employee, for a period of two years after his or her removal from a matter has ceased, from representing another person (or taking oral or written communications with the intent to influence) in such matter before a court or government agency if the matter was substantially pending within the area of his or her official responsibility at any time in the last year prior to termination of the employee's responsibility.

(b) A special government employee who serves 61 days or more in a given position designated under 5 U.S.C. 1305(a)(2) or under the Ethics in Government Act of 1978 (5 U.S.C. 1305(a)(3)) shall not represent anyone other than the United States before the RTC or a former agency in any particular matter (whether or not a specific party or parties are involved) and may not make oral or written communications with intent to influence, to that agency for a period of one year after his or her employment has ceased. For purposes of this restriction, the term "agency" includes both the RTC and the Oversight Board but does not in-

§ 1605.38

clude the Resolution Funding Corporation or the Federal Housing Finance Board.

§ 1605.37 Applicability of 18 U.S.C. 208.

(a) Section 208 of title 18 of the U.S. Code bears on the activities of government personnel, including special government employees, in the course of their official duties. In general, it prevents an employee of a special government employee or substantially as a government officer or employee in a particular matter in which, to his or her knowledge, the employee, his or her spouse, minor child, partner, profit or nonprofit organization in which the employee is serving as officer, director, trustee, partner or employee, or any person or organization with whom the employee is dealing or has any arrangement concerning a specific employment, has a financial interest. Waivers may be granted in connection with the U.S. Office of Government Ethics, subject to the provisions of 18 U.S.C. 208(b)(1). Until such waivers are issued and waivers thereunder are granted, special government employees are disqualified from participating in any matter in which such a financial interest exists.

(b) For the purposes of 18 U.S.C. 208, the phrase "participates personally and substantially in a particular matter" includes participation through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter. Accordingly, a special government employee should in general be disqualified from participating in such a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by 18 U.S.C. 208.

§ 1605.38 Advice on rules of conduct and conflicts of interest statutes.

Any special government employee having any doubt as to the propriety of any conduct falling within the con-

12 CFR Ch. XVI (1-1-93 Edition)

ee on the days when he or she does not serve the government as well as on the days when he or she does.

(c) An employee who undertakes service with the RTC and another federal entity, including the Oversight Board, shall inform each of his or her arrangements with the other.

(d) There may be situations where a special government employee has a responsible position with his or her regular employer which requires him or her to participate personally in a matter before the RTC or the Oversight Board. In such a situation, the special government employee should participate in the matter for his or her regular employer only with the knowledge of the appropriate director, after consultation with the Ethics in Government Act of 1978, and the members of the National or Regional Advisory Board may not represent his or her regular employer in, an must be fully recused from, any agency deliberations or actions concerning any contract or other particular matter such employer has before or involving the Oversight Board or the RTC and must also be prohibited from starting in any fees or profits directly attributable to such contract or other particular matter. Thus, employers of persons who also serve as independent members of the Oversight Board or the National or Regional Advisory Boards are not barred from contracting with the RTC or the Oversight Board provided that such members are in full compliance with this paragraph.

(e) Section 205 of title 18 of the U.S. Code permits a special government employee to represent, with or without compensation, a parent, spouse, child, or another person or an estate, or he or she serves as a fiduciary, but only if he or she has the approval of the official responsible for appointment to his or her position and the matter involved is neither one in which he or she has participated personally or substantially nor one under his or her official responsibility. What constitutes personal and substantial participation in a matter is discussed in § 1605.37(b) of this part. The term "official responsible" is defined in 18 U.S.C. 202 to mean the direct ad-

X000771

§ 1606.1

PART 1606—QUALIFICATION OF ETHICAL STANDARDS OF CONDUCT FOR, AND RESTRICTIONS ON THE USE OF, AND RESTRICTIONS ON INFORMATION BY INDEPENDENT CONTRACTORS

- Sec. Authority, purpose, and scope.
 1606.1 Definitions.
 1606.2 Contractors' Conflicts Committee.
 1606.3 Outside Counsel's Conflicts Committee.
 1606.4 Qualification of contractors.
 1606.5 Disqualification of contractors.
 1606.6 Organizational conflicts of interest.
 1606.7 General standards for independent contractor activities.
 1606.8 Limitations on concurrent and subsequent activities.
 1606.9 Communications with RTC employees.
 1606.10 Confidentiality of information.
 1606.11 Source selection information.
 1606.12 Use of consultants.
 1606.13 Use of subcontractors.
 1606.14 Resolution of conflicts.
 1606.15 Resolution Trust Corporation as conservator.
 Authority: 12 U.S.C. 1414a(b)(4) and (12), (p)(1)(B), (3), and (7), and 12 U.S.C. 1821(d).
 Source: 55 FR 3350, 3356, Feb. 14, 1990, unless otherwise noted.

§ 1606.1 Authority, purpose, and scope.
 (a) Authority. This part is adopted pursuant to section 21A(p) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA", Pub. L. 101-73, section 501, 103 Stat. 133, 363 (to be codified at 12 U.S.C. 1414a(p)), section 21A(b) (4) and (12) of the Federal Home Loan Bank Act, as added by section 501 of FIRREA, Pub. L. 101-73, section 501, 103 Stat. 133, 363 (to be codified at 12 U.S.C. 1414a(b) (4) and (12)); and section 11(c) of the Federal Deposit Insurance Corporation Act, as amended by section 112 of FIRREA, Pub. L. 101-73, section 112, 103 Stat. 133, 222 (to be codified at 12 U.S.C. 1821(d)). Pursuant to those sections, the Oversight Board and the Resolution Trust Corporation are promulgating rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibility

Resolution Trust Corporation

Financial Disclosure Reports (SF 278) in accordance with the requirements of the Ethics in Government Act of 1978 and regulations of the U.S. Office of Government Ethics, 5 CFR part 263.

(d) A statement of employment and financial interests required to be filed under this section shall be filed not later than the time of employment of the special government employee. The special government employee shall keep his financial interests current throughout his or her employment with the RTC by the submission of amended or annual statements as required.
 (e) The provisions of § 1605.27(c) through (h) of this part shall apply to statements filed under this section.

Part G—Competence, Experience, Integrity, and Fitness of Resolution Trust Corporation Employees

§ 1605.44 Minimum competence, experience, integrity, and fitness requirements for Resolution Trust Corporation employees.

(a) No employee shall remain employed by the RTC or otherwise perform any service for or on behalf of the RTC who has:
 (1) Been convicted of a felony;
 (2) Been removed from, or prohibited from participation in, the affairs of any financial institution or institution subject to any final enforcement action by any appropriate Federal banking agency;
 (3) Demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions;
 (4) Caused a substantial loss to Federal deposit insurance funds.
 (b) Any employee who fails to meet the minimum standards as provided in § 1605.44(b) of this part shall report such facts in writing to the Ethics Counselor immediately.

12 CFR Ch. XVI (1-1-93 Edition)

in connection with his or her employment, shall not receive or solicit from a person having business with the RTC anything of value as a gift, gratuity, loan, entertainment, or other benefit, directly or indirectly, from that person, himself or herself, with whom he or she has family business or financial ties.
 (b) The exemptions of § 1605.8(b) of this part with regard to employees shall be applicable to special government employees.

§ 1605.45 Statements of employment and financial interests.

(a) Except as provided in paragraph (b) and (c) of this section, each special government employee shall submit a statement of employment and financial interests to the Ethics Counselor which reports:

- (1) All other employment; and
 - (2) The financial interests of the special government employee which the RTC determines are relevant in the light of the duties he or she is to perform.
- (b) The Ethics Counselor may waive the requirement in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special government employee who is not a consultant or an expert when the Ethics Counselor finds that the duties of the position held by that special government employee are of such a nature that the submission of a statement by the incumbent is not necessary to protect the integrity of the RTC. For the purpose of this paragraph, "consultant" and "expert" have the meanings given those terms by Chapter 36 of the Federal Personnel Manual, but do not include a physician, dentist, or medical specialist, whose services are provided to patients, or a social worker or social worker in training, whose services are provided to clients. Special government employees who are relieved of the requirement of filing a statement include, but are not limited to: summer personnel; student interns, and individuals paid out of "Impress Funds" to assist in insured depository institution liquidations.
- (c) Special government employees at or above Executive Level I shall file

§ 1605.39

Conflicts of interest statutes or regulations should confer with the Ethics Counselor. Assistance in interpreting the conflicts of interest statutes, these regulations, and any other instructions involving conduct and conflicts of interest will be provided by the Ethics Counselor to any special government employee, prospective government employee, and their appointing officials and supervisors desiring it.

§ 1605.39 Use of RTC employment.

A special government employee shall not use his or her RTC employment for a purpose that is served by the RTC, or for private gain for himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

§ 1605.40 Use of inside information.

(a) A special government employee shall not use any inside information obtained as a result of his or her RTC employment for private gain for himself or herself or another person, either by direct action on his or her part, or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For the purpose of this section, "inside information" means information obtained under RTC authority which has not become part of the body of public information available to the public. The provisions of § 1605.11(a) through (d) of this part with regard to employees shall be applicable to special government employees.

§ 1605.41 Coercion.

A special government employee shall not use his or her RTC employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or to another person, particularly one with whom he or she has family, business, or financial ties.

§ 1605.42 Gifts, entertainment, favors, and loans.

(a) Except as provided in paragraph (b) of this section, a special government employee, while so employed or

X000772

§ 1606.2	12 CFR Ch. XVI (1-1-93 Edition)	Resolution Trust Corporation	§ 1606.2
<p>ities, the use of confidential information consistent with the goals and purposes of titles 18 and 41 of the United States Code, and minimum standards of competence, experience, integrity, and fitness.</p> <p>(b) Purpose. These regulations seek to ensure that contractors meet minimum standards of competence, integrity, and fitness, and to ensure that they hold the highest standards of ethical conduct in performing services for the RTC. They are intended to prevent:</p> <p>(1) The direct or indirect use of information gained through performance of a contract with the RTC for personal gain not contemplated by the contract; and</p> <p>(2) The use of personal relationships or improper influence to gain unfair competitive advantage in obtaining contracts with the RTC.</p> <p>(c) Scope. These regulations apply to contracts for services entered into by the RTC, after the effective date of these regulations, with law firms, accounting firms, investment banking firms, real estate brokers, appraisers, asset managers, property managers, leading agents, and others performing similar services on behalf of the RTC. Except for contracts for legal, accounting, or investment management services entered into with a contractor attributable to the Corporation, a single conservatorship, or a single consolidated field office, in which payments over the course of one year are not expected to aggregate in excess of \$25,000, are not subject to these regulations. Further, these regulations shall not apply to contracts for day-to-day operations, routine maintenance, or the provision of electronic data processing services for the RTC, and shall not apply to real estate brokers' commissions resulting from nonexclusive offerings.</p> <p>§ 1606.2 Definitions.</p> <p>(a) Competing property means real property which has the same general character as an asset which is the subject of a contract between the contractor and the RTC, is in the same geographic market as defined in the solicitation, and in which the contractor or</p>	<p>a related entity has 25 percent or greater ownership interest.</p> <p>(b) Contractor means the individual or entity submitting an offer to perform services for the RTC or having a contractual arrangement with the RTC to perform services but does not include special government employees. For the purposes of § 1606.2, "contractor" includes a subcontractor.</p> <p>(c) Defalcation means:</p> <p>(1) Any default on any obligation to pay principal or interest to an insured depository institution; or</p> <p>(2) An act that was intended to cause a loss to an insured depository institution; or</p> <p>(3) A borrower's entering into a loan agreement with an insured depository institution, the making of which was an unsafe or unsound action of the insured depository institution, and the borrower should have known of the unsafe or unsound action.</p> <p>(d) Delinquency means:</p> <p>(1) A delinquency of 90 or more days as to payment of principal or interest on a loan or advance from an insured depository institution; or</p> <p>(2) A failure to comply with the terms and conditions of a contract with the FDIC, the FDIC's insured depository institution, or an insured depository institution other than a loan or advance from an insured depository institution.</p> <p>(e) FDIC means the Federal Deposit Insurance Corporation in its corporate or receivership capacity or as conservator of an insured depository institution.</p> <p>(f) FSILIC means the former Federal Savings and Loan Insurance Corporation and the Federal Savings and Loan Insurance Corporation Resolution Fund.</p> <p>(g) Loss means:</p> <p>(1) An obligation as to which there is a continuing legal claim that is owed to a Federal depository institution or FSILIC, or to the RTC that is 12 months or more delinquent as to principal or interest; or</p> <p>(2) An obligation to pay an outstanding, unsatisfied, final judgment based on any legal theory in favor of any insured depository institution, Federal depository insurance funds, FSILIC, or the RTC.</p>	<p>(h) Management official means those individuals within a contractor's organization who have substantial responsibility for the direction and control of the contractor's policies and operations. With respect to partnerships that have a management committee or executive committee which has been given such responsibilities, this means each of the members of those committees and, if the members of those committees are not individuals, each of the persons who are each of the general partners or partners in an obligation which, if not satisfied, would cause a loss of \$50,000 or more.</p> <p>(i) Organizational conflict of interest means a situation in which:</p> <p>(1) Performance of a previous contract with the RTC or the Oversight Board, by providing the contractor with an unfair competitive advantage in obtaining a contract; or</p> <p>(2) This conflict of interest related entity has an interest or relationship which could adversely affect the contractor's ability to perform under the contract or to represent the RTC.</p> <p>(j) Pattern or practice of defalcation means:</p> <p>(1) There are two or more instances of defalcation as defined in § 1606.2(c)(1) with respect to which there are continuing legal claims in an aggregate amount in excess of \$50,000; or</p> <p>(2) There are two or more instances of defalcation as defined in § 1606.2(c)(2) or § 1606.2(c)(3).</p> <p>(k) Key employee means an individual who participates personally and substantially, through decision, approval, recommendation, or the rendering of advice, in the negotiation and performance of, and monitoring for compliance under the contract for the RTC.</p> <p>(l) Personal conflict of interest means a business or financial interest of a natural person, his or her spouse, or any child, grandchild, or other blood relative, which could adversely affect the individual's ability to perform under the contract or represent the interests of the RTC.</p> <p>(m) Related entity means a contractor's management officials; any individual or entity that controls or is con-</p>	<p>trolled by or is under common control with the contractor, or any other entity that it controls, or any other contractor's management officials and that will perform work pursuant to the contract. For purposes of this part, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, or through one or more subsidiaries, owns or controls 25 percent or more of its equity, or otherwise exercises management or policy-making control over the entity, or is regarded as related to the entity. A subsidiary of an entity shall not be regarded as related to the entity if that is its master franchiser if the subsidiary is independently owned and operated.</p> <p>(n) RTC means, collectively, the Corporation, the Resolution Trust Corporation as receiver, and the Resolution Trust Corporation as conservator. The "Corporation" means the Resolution Trust Corporation acting as an instrumentality of the United States, and not as conservator or receiver for an insured depository institution.</p> <p>(o) RTC employee means a director, officer, or employee of the RTC, including a special government employee, or an employee of any other government agency who is properly acting on behalf of the RTC.</p> <p>(p) Source selection information means information related to a particular contract or contractor selection process, including any such contract process using procedures other than competitive procedures, which, if not available to the public, and, if obtained by a contractor, would give an advantage in the contract selection process.</p> <p>(r) Special government employee means any employee serving the RTC with or without compensation for a period not to exceed 130 days during the 365-day period on a full-time or intermittent basis.</p> <p>(s) Subcontract means any individual or entity with whom a contractor has entered or intends to enter into a contract to perform services within the scope of this part in order to fulfill the contractor's obligation under its contract with the RTC.</p>

X000773

§ 1606.4

mittee, will determine whether a contractor who cannot furnish more or more of the certifications required by paragraph (a) of this section is deemed to meet minimum standards of fitness and integrity.

(2) A contractor may consolidate the responses of its related entities in furnishing the certifications required by paragraphs (a)(1) through (a)(11) of this section or in providing the information required by paragraph (b)(1) of this section. If a consolidated response is submitted, the contractor shall retain the information obtained from its related entities and shall be required to prepare the certifications during the term of the contract and during the period of three years following the termination or expiration of the contract and shall make such information available for review by the RTC upon request.

(3) Before permitting any individual to perform work pursuant to the contract, the contractor shall obtain such information from such individual as will permit it to furnish the certification to comply with paragraph (a)(12) of this section. The contractor shall retain the information upon which it relied in preparing the certification and during the term of the contract and during the period of three years following the termination or expiration of the contract shall make such information available for review by the RTC upon request. Whenever a contractor receives information indicating that the certification or any information upon which it relied in preparing the certification is incorrect in any material aspect, the contractor shall promptly notify the RTC and shall not permit the individual whom the information related to perform work pursuant to the contract.

(c) Before permitting any subcontract to perform work pursuant to the contract, the contractor shall determine that the subcontractor has been determined to be qualified to provide services to the RTC.

(c) Delay. The RTC, in case of an emergency, to preserve assets of the RTC, may delay implementation of the certification or other requirements of this section.

Resolution Trust Corporation

with its ability to perform on the contract; or

(ii) is subject, to their knowledge, to an administrative or criminal investigation relating to fraudulent activity on the commission of the past five years.

(iii) The contractor nor any of its related entities has been held liable for fraud, dishonesty, misrepresentation, or breach of fiduciary duty;

(iv) That neither the contractor nor any of its related entities is currently excluded from Federal procurement or procurement programs;

(v) That neither the contractor nor any of its related entities is subject to any of identified final judgment in favor of the FDIC, the FSLIC, or the RTC;

(vi) That neither the contractor nor any of its related entities is a party to a lawsuit in which the FDIC, the FSLIC, or the RTC is seeking recovery in excess of \$50,000 from the contractor or its related entities; and

(vii) That the contractor will not employ any individual or subcontractor to perform work on the contract who:

(i) Has been convicted of any felony;

(ii) Has been removed from, or prohibited from participating in, the affairs of any insured depository institution pursuant to any final enforcement action by any federal banking agency;

(iii) Has demonstrated a pattern or practice of delinquency;

(iv) Has caused a substantial loss to Federal deposit insurance funds; or

(v) Is currently under any obligation to the FDIC, the FSLIC, or the FDIC, the FSLIC, or the FDIC.

Depending upon the nature of the contract, a contractor may be required to submit such additional certifications or information with respect to entities or information with respect to entities as the RTC deems appropriate.

(f) Procedures. (1) A contractor who cannot furnish any one or more of the certifications required by paragraph (a) of this section shall provide information explaining the reasons for its inability to furnish the certification(s). The Contractors' Conflicts Committee, or the Outside Counsel's Conflicts Com-

12 CFR Ch. XVI (1-1-92 Edition)

§ 1606.4 Qualification of contractors.

(a) Requirements. The RTC shall not enter into a contract with any contractor unless the contractor and its related entities meet minimum standards of competence, integrity, fitness, and experience. In addition to presenting evidence on a form or forms to be furnished to the RTC, the contractor shall provide a list of:

(i) Any instance during the preceding five years in which there was a default by the contractor or any of its related entities on any material obligation to an insured depository institution, and

(ii) Any instance during the preceding five years in which there was a default by the contractor or any of its related entities on any material obligation to a following item:

(1) That neither the contractor nor any of its related entities has been convicted of a felony;

(2) That neither the contractor nor any of its related entities has been removed from, or prohibited from participating in, the affairs of any insured depository institution pursuant to any final enforcement action by any federal banking agency;

(3) That neither the contractor nor any of its related entities has demonstrated a pattern or practice of delinquency under § 1606.2(k)(1);

(4) That neither the contractor nor any of its related entities has caused a substantial loss to Federal deposit insurance funds;

(5) That neither the contractor nor any of its related entities nor any entity that during the term of the contract, or those who control the contractor, has failed to satisfy an obligation to pay principal or interest at its full value owed to any Federal deposit insurance funds, FSLIC, or the RTC;

(6) That neither the contractor nor any of its related entities are currently in default on any obligation(s) to the FDIC, the FSLIC, or the RTC;

(7) That neither the contractor nor any of its related entities:

(i) Is currently party to an administrative or judicial proceeding in which any of them is alleged to have engaged in fraudulent activity or has been charged with the commission of a felony or which seeks a remedy that would prevent or materially interfere

§ 1606.3

(1) Substantial loss to the Federal deposit insurance funds means a loss of more than \$50,000 to the funds maintained by Federal deposit insurance agency for the protection of depositors.

§ 1606.3 Contractors' Conflicts Committee and Outside Counsel's Conflicts Committee.

(a) Designation. The Board of Directors of the Corporation will designate officials of the FDIC or Corporation as members of a Contractors' Conflicts Committee of which will resolve issues of conflict of interest affecting independent contractors, other than law firms, which arise under these regulations. The Outside Counsel's Conflicts Committee appointed by the General Counsel of the FDIC, or designee, will resolve issues of conflict of interest relating to law firms.

(b) Authority. The Contractors' Conflicts Committee and the Outside Counsel's Conflicts Committee may make referrals of and recommendations to the Board of Directors of the Corporation with respect to situations in which a conflict of interest exists but, nevertheless, the contractor should be retained. The contractor has special expertise not otherwise available or the engagement is otherwise in the best interests of the government.

(c) Decisions. Decisions issued either by the Contractors' Conflicts Committee itself, or the Board of Directors of the Corporation itself on matters referred to it by the Contractors' Conflicts Committee shall be in writing and shall include statements of the bases for the decisions. Such decisions shall be filed with the Resolution Trust Corporation.

(d) Availability. The Corporation and shall be made available to the public upon request, with such redactions as may be required to protect the privacy interests of identifiable individuals or confidential business information.

X000774

§ 1606.5

(Approved by the Office of Management and Budget under control number 3306-0001)
(55 FR 5350, 5354, Feb. 14, 1990; 56 FR 11720, Mar. 28, 1990)

§ 1606.5 Disqualification of contractors.

(a) *Mandatory ineligibility.* A contractor shall be deemed not to meet minimum standards of fitness and integrity, and therefore ineligible to contract with the RTC, if the contractor: (1) Is an individual and has been convicted of a felony; (2) Has been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any federal banking agency; (3) Has demonstrated a pattern or practice of default; (4) Has caused a substantial loss to Federal deposit insurance funds; or (5) Is currently in default on an obligation(s) to the FDIC, the FSLIC, or the RTC.

(b) *Discretionary disqualification.* The RTC may determine that a contractor, not subject to paragraph (a) of this section, nevertheless does not meet minimum standards of fitness and integrity to perform work for the RTC because the past activities of the contractor, or a related entity, warrant such determination.

(c) *Notification of disqualification.* The RTC shall notify the contractor in writing of its determination that the contractor is disqualified, the date of disqualification, and the reason for such determination not later than 30 days after the determination is made. The RTC will institute procedures to provide appropriate review of discretionary disqualification decisions.

(55 FR 5350, 5354, Feb. 14, 1990; 56 FR 11720, Mar. 28, 1990)

§ 1606.6 Organizational conflicts of interest.

(a) *Information required about the contractor.* The contractor shall provide to the RTC with any bid, proposal, or offer in regard to the rendering of services to the RTC, or if no bid, proposal or offer is submitted, prior to entering into a contract with the RTC,

12 CFR Ch. XVI (1-1-93 Edition)

sufficient information to permit the RTC to make a determination with regard to organizational conflicts of interest. The scope of the required information will depend on the nature of the contract and will be determined at the time of solicitation, or prior to entering into the contract. The following information shall be required about the contractor and its related entities:

(1) Relationships of the contractor and its related entities as controlling shareholder of any Federally insured depository institution or depository institution holding company;

(2) The names and addresses of contractor's related entities and a description of each related entity's business;

(3) The names of any contractor's related entities that have been directors or officers of an insured depository institution or depository institution holding company;

(4) A list of all competing property of the contractor and its related entities, if the contract relates to the valuation, disposition, or management of real estate;

(5) Information concerning any other business or financial interest of the contractor, or its related entities, which could interfere with the contractor's ability to perform under the contract or to represent the RTC;

(6) Any information required to comply with the requirements of § 1606.4(b)(4); and

(7) Any other information about the contractor or its related entities which may be requested by the RTC.

(b) *Certification required.* At the time the contractor provides the information required by paragraph (a) of this section, the contractor shall also provide the following certification:

(1) That no organizational conflict exists as a result of the contractor's interests, relationships, or other RTC contracts;

(2) That the contractor has obtained a certification from each of its related entities that no organizational conflict exists as a result of the related entity's interests, relationships, or other RTC contracts; and

(3) That, to the best of the contractor's knowledge, no organizational conflict exists as a result of its related en-

Resolution Trust Corporation

ities' interests, relationships, or other RTC contracts; or, if organizational conflicts exist, provide information:

(i) Detailing those conflicts;

(ii) Requesting a waiver from the Contractors' Conflicts Committee or the Outside Counsel's Conflicts Committee, including with the request any information it deems appropriate to support the issuance of a waiver;

(c) *Determination required.* Prior to entering into any contract, the RTC must conclude that no organizational conflict of interest exists or that, if such conflict exists, it has been waived by the Contractors' Conflicts Committee or the Outside Counsel's Conflicts Committee.

(d) *Notification of information.* Information obtained by the contractor to comply with paragraph (a) of this section and to make the certifications required by paragraph (b) of this section shall be retained during the term of the contract and for a period of three years following termination or expiration of the contract and shall be made available for review by the RTC upon request, except as provided in paragraph (e).

(e) *Subsequent notification.* Within 10 days after learning of an organizational conflict of interest, the contractor shall notify the RTC of the conflict of interest and either describe the steps it has taken to eliminate the conflict or request a waiver from the Contractors' Conflicts Committee or the Outside Counsel's Conflicts Committee.

(Approved by the Office of Management and Budget under control number 3306-0001)

§ 1606.7 Personal conflicts of interest.

(a) *Contractor's responsibility.* A contractor shall ensure that all management officials and key employees have no personal conflicts of interest.

(b) *Information required.* A contractor shall obtain from its management officials and key employees the following information about the personal and financial relationships of themselves, their spouses, and minor children:

(1) Loans from, employment by, or an ownership interest in the depository

§ 1606.7

institution whose assets are the subject of the contract;

(2) Relationships within the last five years with any other insured depository institution, or depository institution holding company, as an officer, director, or controlling shareholder or employee;

(3) Financial, business, or close personal relationships with any person or entity, who to their knowledge, has an interest in the assets which are the subject of the contract, including information about negotiations or arrangements for future employment with such person or entity;

(4) A list and description of any instance during the preceding five years in which there was a default on any insured depository institution's insured depository institution; and

(5) Any other information deemed necessary by the RTC.

(c) *Certification.* The contractor shall determine whether any management official or key employee has an interest which conflicts with responsibilities to the RTC. In making those determinations the contractor may rely on the information obtained pursuant to paragraph (b) of this section.

(d) *Disqualification.* The contractor shall disqualify persons with personal conflicts of interests from performing work pursuant to the contract. If appropriate, the contractor may seek a waiver from the Contractors' Conflicts Committee or the Outside Counsel's Conflicts Committee, to allow employment of an individual with a personal conflict of interest on the contract.

(e) *Notification of interest.* The contractor shall notify the RTC that all management officials and key employees for whom no waiver is sought, have no business, personal, or financial interest which conflicts with responsibilities to the RTC.

(f) *Contractor's responsibility.* The contractor shall ensure that all management officials and key employees for whom no waiver is sought, have no business, personal, or financial interest which conflicts with responsibilities to the RTC.

(g) *Information required.* A contractor shall obtain from its management officials and key employees the following information about the personal and financial relationships of themselves, their spouses, and minor children:

(1) Loans from, employment by, or an ownership interest in the depository

X000775

§ 1606.8

ment on the contract work, and to update information within 10 days of any change.

(f) Subsequent notification. Within 10 days after learning of management of interest, the contractor shall notify the RTC of the conflict and either describe the steps it has taken to eliminate the conflict or request a waiver from the Contractors' Conflicts Committee or the Outside Counsel's Conflicts Committee.

(g) Retention of information. Information obtained by a contractor from its management officials and key employees pursuant to paragraph (b) of this section shall be retained during the term of the contract and for a period of three years following termination or expiration of the contract and shall be made available for review by the RTC upon request, except to the extent that disclosure is prohibited by law.

(Approved by the Office of Management and Budget under control number 3905-0001)

185 FR 5350, 5356, Feb. 14, 1990; 85 FR 11720, Mar. 29, 1990

§ 1606.9 General standards for independent contractor activities.

(a) In connection with the performance of any contract and during the term of such contract, a contractor, its key employees, subcontractors, and its related entities, shall not:

(1) Act for the RTC in any matter in which either the contractor, its key employees, subcontractors, or a related entity, has a conflict of interest unless the contractor's Conflicts Committee has determined that such participation is appropriate;

(2) Accept or solicit for itself or others favors, gifts, or other items of monetary value from any individual or entity whom the contractor, its key employee, or subcontractor, knows is seeking official action from the RTC; or

(3) Improperly use or allow the improper use of RTC property, or property over which the contractor, its key

Resolution Trust Corporation

regard to such contract. This restriction does not prevent the RTC from determining its limitations on the number of entities it may simultaneously engage a single contractor to both develop and implement a plan of action.

(2) A contractor engaged by the RTC to manage, lease, value, or establish a sales price for an asset or group of assets cannot enter into any subsequent contract with the RTC to purchase that asset or assets or assist someone other than the RTC or FDIC with the sale of that asset or those assets from the RTC.

(3) A contractor cannot act for the RTC in the same particular matter in which it or a related entity has a business or financial interest.

(4) Additional limitations may be imposed on a contractor's concurrent or subsequent activities on a case-by-case basis in situations in which the RTC concludes that a contractor may gain an unfair competitive advantage or such an activity would raise a significant appearance of impropriety. These additional limitations, when imposed, will be disclosed to the contractor prior to entering into the contract.

(b) Waivers. The Contractors' Conflicts Committee and the Outside Counsel's Conflicts Committee may grant waivers from the limitations imposed by paragraph (a) of this section. Other rules which may be sufficient to warrant the granting of a waiver are:

(1) Evidence of an established office; the screening mechanism which would eliminate the likelihood of the contractor obtaining any undue advantage; or

(2) An open or competitive bidding procedure in which the contractor's work for the RTC would provide no competitive advantage.

§ 1606.10 Communications with RTC employees.

(a) Prohibitions. During the course of any contractor selection process by the RTC (including any contractor selection process using procedures other than competitive procedures), a competing contractor, its related entities, agents, or consultants of the competing

ing contractor or its related entities shall not:

(1) Directly or indirectly make any offer or promise of future employment or business opportunity to, or engage directly or indirectly in any business opportunity with, any RTC employee with personal or direct responsibility for that procurement, and competing contractors who wish to discuss employment opportunities with an employee should inquire prior to engaging in such discussions whether the employee has personal or direct responsibility for the contractor selection process in which the contractor will be or is competing;

(2) Offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any RTC employee, except as permitted by rules of the Corporation; or

(3) Solicit or obtain, directly or indirectly, from any RTC employee, prior to the selection process, any proprietary or source selection information regarding such contractor selection process.

(b) Competing contractor. For purposes of this section, "competing contractor" with respect to any contractor selection process (including a process using procedures other than competitive procedures) means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such contractor selection process, and includes any other person acting on behalf of such entity.

(c) Certification. The RTC shall not award a contract or agree to a modification of a contract unless the officer responsible for the competing contractor employment for the bid, offer, or

1. Employees who have no personal or direct responsibility for the selection process may engage in employment discussions if they disqualify themselves from subsequent participation in any matter in which they are involved. See 38 U.S.C. 208(a) and 12 CFR 1606.15(b).
2. Employees of the RTC are prohibited from soliciting or accepting anything of value from anyone having business with the RTC or the FDIC. See 12 CFR 1606.9.

12 CFR Ch. XVI (1-1-93 Edition)

employee, subcontractor, or related entity, has supervision or control by reason of the contract for the person, all entities, any individual or entity other than the RTC; and

(4) Make any unauthorized promise or commitment on behalf of the RTC, or on behalf of the RTC pursuant to a contract or any other agreement shall be deemed a public official for purposes of 18 U.S.C. 201. That statute generally prohibits the direct or indirect acceptance by a public official of anything of value in return for being influenced in, or because of, an official act. Violators are subject to criminal penalties.

(c) Any individual or entity providing information or certification to the RTC is subject to 18 U.S.C. 1001. That statute prohibits any individual that any individual or entity has violated any provision of title 18 of the U.S. Code or other provision of criminal law, the RTC shall refer such information to the Department of Justice.

§ 1606.9 Limitations on concurrent and subsequent activities.

(a) Avoiding undue advantage. The Corporation has determined that contractors performing services for the RTC may have an undue advantage over competitors if they seek additional contracts with the RTC or with third parties which relate to work being performed or already performed for the RTC. To prevent such advantage, restrictions, dependent on the scope of contractual responsibilities, must be imposed on the concurrent and subsequent activities of contractors. Accordingly, the following restrictions shall apply under paragraph (b) of this section:

(1) A contractor engaged by the RTC to develop a plan of action concerning a specific insured institution cannot enter into any subsequent contract with the RTC to implement its recommendations or assist others in

1 Section 1001 of title 18 generally prohibits the making of any false or fraudulent statement to a federal officer.

X000777

§ 1608.1

(b) During the period that terminates on the later of the date six months from the effective date of this regulation or the date six months from the appointment of the Resolution Trust Corporation as conservator, the conservator may enter into or renew a contract that does not comply with the requirements of this part, or fail to terminate a terminable contract in accordance with paragraph (a) of this section, provided that the conservator determines with respect to any such contract that:

- (1) It is necessary for the operations of the association; and
 - (2) No qualified contractor is available to contract for similar services on reasonable financial terms.
- The conservator shall not authorize or permit the term of any such contract to extend beyond the close of that period during which the conservator is authorized for the operations of the association and a qualified contractor for similar services on reasonable financial terms is not available, as determined by the conservator.

(c) The Corporation shall establish a reporting system for the contracts described in this section that are not in compliance with the requirements of this part. Reports shall be forwarded to the Board of Directors of the Corporation and the Oversight Board.

PART 1608—APPRAISALS

Sec.

- 1608.1 Authority, purpose, and scope.
 1608.2 Definitions.
 1608.3 Appraisals not required; transactional appraiser.
 1608.4 Appraisal standards.
 1608.5 Appraiser independence.
 1608.6 Professional association membership competency.
 1608.7 Enforcement.
 1608.8 Enforcement.
 1608.9 Enforcement.
 1608.10 Enforcement.
 1608.11 Enforcement.
 1608.12 Enforcement.
 1608.13 Enforcement.
 1608.14 Enforcement.
 1608.15 Enforcement.
 1608.16 Enforcement.
 1608.17 Enforcement.
 1608.18 Enforcement.
 1608.19 Enforcement.
 1608.20 Enforcement.
 1608.21 Enforcement.
 1608.22 Enforcement.
 1608.23 Enforcement.
 1608.24 Enforcement.
 1608.25 Enforcement.
 1608.26 Enforcement.
 1608.27 Enforcement.
 1608.28 Enforcement.
 1608.29 Enforcement.
 1608.30 Enforcement.
 1608.31 Enforcement.
 1608.32 Enforcement.
 1608.33 Enforcement.
 1608.34 Enforcement.
 1608.35 Enforcement.
 1608.36 Enforcement.
 1608.37 Enforcement.
 1608.38 Enforcement.
 1608.39 Enforcement.
 1608.40 Enforcement.
 1608.41 Enforcement.
 1608.42 Enforcement.
 1608.43 Enforcement.
 1608.44 Enforcement.
 1608.45 Enforcement.
 1608.46 Enforcement.
 1608.47 Enforcement.
 1608.48 Enforcement.
 1608.49 Enforcement.
 1608.50 Enforcement.
 1608.51 Enforcement.
 1608.52 Enforcement.
 1608.53 Enforcement.
 1608.54 Enforcement.
 1608.55 Enforcement.
 1608.56 Enforcement.
 1608.57 Enforcement.
 1608.58 Enforcement.
 1608.59 Enforcement.
 1608.60 Enforcement.
 1608.61 Enforcement.
 1608.62 Enforcement.
 1608.63 Enforcement.
 1608.64 Enforcement.
 1608.65 Enforcement.
 1608.66 Enforcement.
 1608.67 Enforcement.
 1608.68 Enforcement.
 1608.69 Enforcement.
 1608.70 Enforcement.
 1608.71 Enforcement.
 1608.72 Enforcement.
 1608.73 Enforcement.
 1608.74 Enforcement.
 1608.75 Enforcement.
 1608.76 Enforcement.
 1608.77 Enforcement.
 1608.78 Enforcement.
 1608.79 Enforcement.
 1608.80 Enforcement.
 1608.81 Enforcement.
 1608.82 Enforcement.
 1608.83 Enforcement.
 1608.84 Enforcement.
 1608.85 Enforcement.
 1608.86 Enforcement.
 1608.87 Enforcement.
 1608.88 Enforcement.
 1608.89 Enforcement.
 1608.90 Enforcement.
 1608.91 Enforcement.
 1608.92 Enforcement.
 1608.93 Enforcement.
 1608.94 Enforcement.
 1608.95 Enforcement.
 1608.96 Enforcement.
 1608.97 Enforcement.
 1608.98 Enforcement.
 1608.99 Enforcement.
 1609.00 Enforcement.

Authority: 12 U.S.C. 1411(b)(12), 1821(c)(2)(C), and 3331-3351.
 Source: 55 FR 34228, Aug. 22, 1990, unless otherwise noted.

12 CFR Ch. XVI (1-1-93 Edition)

§ 1608.1 Authority, purpose, and scope.
 (a) Authority. This part is issued under 12 U.S.C. 1411(b)(12), 1821(c)(2)(C), and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (Pub. L. 101-73, 103 Stat. 183, 12 U.S.C. 3331 et seq. (1989)).

(b) Purpose and scope. (1) Title XI provides protection for Federal financial and public policy interests in real estate related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. This part implements the requirements of title XI and applies to all federally related transactions entered into by the RTC in any of its capacities when disposing of real estate, including the receiver, depositor, or of such an institution, or by institutions or the estates thereof for which the RTC has been appointed conservator or receiver (collectively referred to herein as "regulated institutions").

(2) This part:

- (i) Identifies which real estate-related financial transactions require the services of an appraiser;
- (ii) Prescribes which categories of federally related transactions shall be appraised by State certified appraisers and which by a State licensed appraiser; and
- (iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the RTC.

§ 1608.2 Definitions.
 (a) Appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of real estate, supported by data as of a specific date(s), supported by the presentation and analysis of relevant market information.

(b) Appraisal Foundation means the Appraisal Foundation established on

Resolution Trust Corporation

November 30, 1987, as a not-for-profit corporation under the laws of the State of Illinois.

(c) Appraisal Subcommittee means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(d) Complex 1-to-4 family residential property appraisal means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(e) Federally related transaction means a real estate related financial transaction entered into on or after September 21, 1989.

(f) The RTC or any regulated institution engages in or contracts for; and

(3) Requires the services of an appraiser.

(f) Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, in which the seller is acting knowingly and reasonably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of its equivalent in comparable property;

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(g) Real estate or real property means an identified parcel or tract of land, with or without improvements, and includes easements, rights of way, undivided or future interests in land, not including mineral rights, timber rights, growing crops, water rights and similar interests severable from the parcel or tract of land when the trans-

§ 1608.2

action does not involve the associated parcel or tract of land.

(h) Real estate-related financial transaction means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(i) State certified appraiser means any individual who has satisfied the requirements for certification in a State or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualifications Board of the Appraisal Foundation. No individual shall be a State certified appraiser unless and until he or she has passed an examination upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices or procedures of a State or territory are inconsistent with title XI of FIRREA.

The RTC may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(j) State licensed appraiser means any individual who has satisfied the requirements for licensing in a State or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI of FIRREA.

From time to time, the RTC may impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(k) Appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of real estate, supported by data as of a specific date(s), supported by the presentation and analysis of relevant market information.

(l) Appraisal Foundation means the Appraisal Foundation established on

X000778

MEMORANDUM
OF CALL

Previous editions usable

TO: BN

☐ YOU WERE CALLED BY- ☐ YOU WERE VISITED BY-
Dennis Foreman
 OF (Organization) 622-0283

☒ PLEASE PHONE ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

RECEIVED BY _____ DATE 12/35 TIME 12:35

63-110 NSN 7540-00-634-4018 STANDARD FORM 63 (Rev. 8-81)
 Prescribed by GSA
 FPMR (41 CFR) 101-11.6

U.S. GOVERNMENT PRINTING OFFICE: 1981 281-781/40214

881

REDACTED

X000779

March 8, 1994

MEMORANDUM FOR BETH NOLAN

FROM:

TERRY GOOD 
OFFICE OF RECORDS MANAGEMENT

RE:

LETTER FROM CONGRESSMAN JAMES A. LEACH

REDACTED

055 375CM
X000780

March 7, 1994

MEMORANDUM FOR JOHN D. PODESTA

FROM: TERRY W. GOOD



1) a copy of a March 3, 1994, letter from Roger C. Altman, Deputy Secretary of the Treasury, to Senator Donald W. Riegle, Jr. This copy was faxed to George Stephanopoulos and was among the documents that were sent to ORM for filing today from his office.

X000781

ID # 055375 CU

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ M - INTERNAL☒ I - INCOMINGDate Correspondence Received (YY/MM/DD) 9410102Name of Correspondent: Jane A. Bush☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: circulation of things related to the Allean for the House

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>CU NUS</u>	RL	<u>94103102</u>	RL	<u>94102102</u>
<input checked="" type="checkbox"/> <u>CU A104</u>	RL	<u>940307</u>		<u>1 1</u>

ACTION CODES:

A - Appropriate Action
C - Comments/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

SCANNED

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

X000782

OSS375cu

HENRY B GONZALEZ TEXAS, CHAIRMAN
 STEPHEN L NEAL NORTH CAROLINA
 JOHN J LAFALCE NEW YORK
 BRUCE A VENTO MINNESOTA
 CHARLES E SCHUMER NEW YORK
 BARNETT FRANK MASSACHUSETTS
 PAUL E SANDERS PENNSYLVANIA
 RUDOLPH W KENNEDY MASSACHUSETTS
 FLOYD D FLAKE NEW YORK
 STEVEN M MYRNE MARYLAND
 MARSHALL WATERS CALIFORNIA
 LARRY LUKATEL IOWA
 BILL ORTON UTAH
 JIM BACCUS FLORIDA
 HERBERT C RIEB NEW JERSEY
 LAWRENCE B MALONEY NEW YORK
 PETER DEUTSCH FLORIDA
 LUDY V GUTERREZ ILLINOIS
 ROBERT E RUSH ILLINOIS
 LUCILLE ROYBAL ALLARD CALIFORNIA
 THOMAS M BARNETT WISCONSIN
 ELIZABETH FURSE OREGON
 NYOMA M VELAZQUEZ NEW YORK
 ALBERT R WYNN MARYLAND
 CLEO FELDS LOUISIANA
 MELVIN WATT NORTH CAROLINA
 MAURICE HINCHY NEW YORK
 CALVIN M DOOLEY CALIFORNIA
 RON KLIN PENNSYLVANIA
 ERIC FINGERHUT OHIO

U.S. HOUSE OF REPRESENTATIVES
 COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-8050

March 1, 1994

JAMES A. LEACH IOWA
 BILL MCCOLLUM FLORIDA
 MARGIE ROULEMA NEW JERSEY
 DOUG DEUTER NEBRASKA
 THOMAS MOG PENNSYLVANIA
 TERRY BOYD WISCONSIN
 ALFRED A. MCCANDLESS CALIFORNIA
 RICHARD M. BAKER LOUISIANA
 JIM NUSSE IOWA
 CRAIG THOMAS WYOMING
 SAM JOHNSON TEXAS
 DIORIAN PRYCE OHIO
 JOHN LINDER GEORGIA
 JOE ENDLERSBERG MICHIGAN
 RICK LAYO NEW YORK
 RUD GRANE MINNESOTA
 SPENCER SACHS ALABAMA
 BRIAN HUFFINGTON CALIFORNIA
 MICHAEL CASTLE DELAWARE
 PETER KING NEW YORK
 BERNARD SANDERS VERMONT
 (202) 225-4267

Mr. Bernard Nussbaum
 Counsel to the President
 The White House
 Washington, D.C. 20500

Mr. Stephen Potts
 Director
 Office of Government Ethics
 1201 New York Avenue, N.W.
 Suite 500
 Washington, D.C. 20005-3917

Ms. Jean Hanson
 General Counsel
 Room 3000
 Department of the Treasury
 Washington, D.C. 20220

Mr. Art Kusinski
 Chief Ethics Officer
 Resolution Trust Corporation
 801- 17th Street, N.W.
 Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" [see attached letters]. Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000783

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels;
or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000784

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000785

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics Officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,



James A. Leach
Ranking Member

cc: Mr. Roger Altman
Interim CEO
Resolution Trust Corporation

X000787

Mr. Roger C. Altman
 Page 2
 February 3, 1994

not strike the Minority as overly unreasonable for a month or two given the fact that no RTC head had been selected.

However, it has been over a year since the Administration has been in office and it can only be described as structurally unseemly for a political appointee of an Executive branch department to make what are in effect, law enforcement decisions for an independent federal agency as they may touch upon the President.

Accordingly, I would urge that you request from the Department of Treasury's General Counsel and Ethics Office advice as to whether you, as interim CEO of the RTC, are obligated to recuse yourself from any decisions concerning the resolution of Madison Guaranty. Just as the special counsel law was designed to relieve the Attorney General from an ethical dilemma of being both chief law enforcement officer for the nation and chief legal advisor to the President in circumstances when the President or a high level Administration officer is the subject of investigation, so it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions.

In this regard, it should be clear that the issue is not whether a presidentially appointed official can oversee an investigation involving the President. Rather the issue is that officials with this responsibility should be confirmed for the job with that particular accountability. As you will recall it was a political appointee confirmed by the Senate that issued a cease and desist order for engaging in conflicts of interest against the son of a former President.

As you know, despite your strong letter to the Chairman of the House Banking Committee recommending against extension, Congress last year extended the statute of limitations for civil lawsuits brought against S&L wrongdoers. As you pointed out in your most recent letter, this extension "has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution." Given, however, the impending running of the statute of limitations for certain kinds of actions, time is clearly of the essence for the RTC to make judgments about civil accountability in the failure of Madison.

Finally, I would like to reiterate my request, pursuant to Rules X and XI of the House Rules for all documents related to Madison Guaranty Savings and Loan, Little Rock, Arkansas. As you know,

X000788

Mr. Roger C. Altman
Page 3
February 3, 1994

on December 9, 1993, I wrote the RTC requesting access to all documents related to Madison Guaranty and its subsidiaries.

House and Committee Rules, House practices, and judicial precedent support the proposition that the Ranking Minority Member is the functional counterpart to the Chairman for Committee action. This being the case, a request for documents made by the Ranking Minority Member has parallel standing with a request made by the Chairman of the Committee. The Ranking Minority Member clearly has a voice in the process and is entitled to information that will enable the Ranking Minority Member to carry out his constitutionally mandated oversight responsibilities.

Therefore, the courtesy of a definitive reply to this document request is requested by 12 noon, Monday, February 7, 1994. On this matter, it is urged that you also consult with the Ethics Office as to the relevance of the previously discussed recusal issue.

Again, let me stress that to the degree a conflict situation may exist in this matter in no way reflects on your personal integrity. It is simply an awkward circumstance in contrast to a personal embarrassment.

Sincerely,



JAMES A. LEACH
Ranking Member

JAL:fp

Enclosure

4000789



GENERAL COUNSEL

 DEPARTMENT OF THE TREASURY
 WASHINGTON

February 23, 1994

The Honorable James A. Leach
 Ranking Member
 Committee on Banking, Finance and Urban Affairs
 U.S. House of Representatives
 Washington, D.C. 20515-6050

Dear Mr. Leach:

In your letter to Deputy Secretary Altman of February 3, 1994, you asked him to seek advice from "Treasury's General Counsel and Ethics Office" as to whether he is obligated to recuse himself from decisions concerning the Resolution Trust Corporation's resolution of Madison Guaranty Savings and Loan Association. He has sought such advice from me and from ethics officials of the Resolution Trust Corporation and the Treasury Department.

I understand you to express concern about the possibility that the Deputy Secretary might, as acting Chief Executive Officer of the Resolution Trust Corporation pursuant to the Vacancy Act, 5 U.S.C. 3347, participate in RTC decisions as to whether there are civil claims for RTC to pursue arising from the failure of Madison Guaranty Savings and Loan Association and the expiration of statutes of limitation applicable to any such claims. Your concern seems to stem from the fact that decisions regarding those claims "may touch upon the President" who appointed the Deputy Secretary to his Treasury position. You asked the Deputy Secretary to seek advice from Treasury's General Counsel as to whether he is "obligated to recuse (himself) from any decisions concerning the resolution of Madison Guaranty." I have advised the Deputy Secretary that neither his appointment at Treasury nor his detail to the RTC creates such an obligation.

Your letter suggests that the Deputy Secretary's participation in such decisions would be "structurally unseemly," a conclusion apparently based on the fact that he was appointed by the President and confirmed for a position in a Cabinet department and is acting in a position in an Executive agency that is not such a department. However, the authority pursuant to which the Deputy Secretary is detailed to RTC duties was amended in 1988 precisely so that any Executive agency, such as the RTC, and not just Cabinet departments, could continue to have Presidentially-appointed leadership when circumstances delay filling vacant positions. Pub.L. 100-398, §7(a)(1) and (2), Aug. 17, 1988, 102 Stat. 988.

You also suggest that a structural issue arises from RTC's "public law enforcement responsibilities;" that it would be improper for a Presidential appointee not confirmed for a position at the RTC to exercise those responsibilities. However, the RTC is not a "law enforcement" agency. Its responsibility to pursue civil claims owed to the institutions it takes over is not a "law enforcement" responsibility. In fact, RTC's claims collection responsibility is more analogous to the responsibility of the head of every Executive agency to collect claims of the United States that arise from the agency's activities or are referred to it. 31 U.S.C. 3711. The differences between the Deputy Secretary's claims collection responsibilities at Treasury and at the RTC raise no "structural" concern regarding his performance of those responsibilities at the RTC.

Even if the RTC were in some special sense a "law enforcement" agency, which it is not, absent an exception in the Vacancy Act or another statutory provision creating an exception, the Vacancy Act authorizes filling vacant positions at any "Executive agency (other than the General Accounting Office)." The language of the Act does not distinguish among agencies based on the nature of their functions. Moreover, it would be incorrect to infer the existence of such distinctions. In the one instance of an exception created by the Vacancy Act, Congress has employed language that clearly achieves that objective. The Act expressly provides that its authority to detail Presidential appointees from other agencies does not apply to vacancies in the office of the Attorney General; neither the Vacancy Act nor any other law creates such an exception for the RTC.

Finally, even if there were some basis for reading into the Vacancy Act a principle that only an official confirmed for a position in an agency with law enforcement responsibilities should be detailed to another such agency, the Deputy Secretary's position at Treasury would qualify, rather than disqualify him. Treasury has enormous criminal law enforcement responsibilities, as is amply demonstrated by the significant law enforcement jurisdictions of the Bureau of Alcohol, Tobacco and Firearms, the Customs Service, the Secret Service and the Internal Revenue Service. Each of those organizations reports through its chain of command to the Deputy Secretary of the Treasury.

You also suggested that Deputy Secretary Altman consult ethics officials. He has done so. I am informed that the RTC's Ethics Officer and Treasury's Designated Agency Ethics Official, in consultation with the Office of Government Ethics, have advised

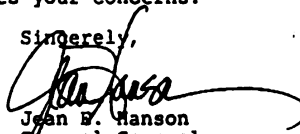
X000791

3

the Deputy Secretary that he is under no legal obligation to recuse himself from matters at the RTC that "may touch upon the President."

I trust this letter fully addresses your concerns.

Sincerely,



Jean E. Hanson
General Counsel

X000792



RESOLUTION TRUST CORPORATION
*Resolving The Crisis
 Restoring The Confidence*

May 4, 1993

Honorable Henry B. Gonzales
 Chairman
 Committee on Banking, Finance
 and Urban Affairs
 House of Representatives
 Washington, D.C. 20515

RECEIVED

MAY 4 1993

Committee on Banking, Finance
 & Urban Affairs

Dear Mr. Chairman:

Thank you for this opportunity to comment on the issue of extending the limitations period applicable to tort claims brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed insured depository institution.

As you know, over a year ago the RTC generally supported legislative efforts to extend this limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. The RTC, however, survived this critical period of time without missing a deadline. In fact, as of March 31, 1993, the RTC had 220 pending offensive lawsuits involving RTC claims filed in 174 institutions. As of the same date, 120 settlement agreements have been executed, and 11 cases went to final judgment through trial.

In addition, beginning last autumn, the RTC has been increasing PLS staff to meet the demands of its workload. The Secretary of the Treasury, in his capacity as Chairman of the Thrift Depositor Protection Oversight Board, has further committed to review and recommend improvements in the organization and staffing of PLS as part of his nine-point plan for the RTC, recently announced during his semi-annual testimony before Congress. Consequently, the RTC has no need at this time either to revisit "closed"

X000793

Honorable Henry B. Gonzalez
Page 2

claims arising in institutions in which the limitations period
has expired or to extend the limitations period prospectively as
the RTC will continue to meet all upcoming deadlines.

Please let me know if you need any further information.

Sincerely,



Roger C. Altman
Interim CEO

X000794

THE WHITE HOUSE
WASHINGTON

February 10, 1994

Dear Congressman Wolf:

Thank you for your letter of January 11, which asks whether public funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

As I am sure you realize, an investigation affecting a sitting President necessarily requires the official attention of the White House staff, including the Office of the Counsel to the President. For example, the White House has been called upon to respond to various inquiries from members of Congress. Similarly, members of the press have made inquiries to the White House. These inquiries have required responses from the White House, including legal judgments on matters affecting the office of President of the United States.

As you know, however, the President and Mrs. Clinton are represented personally by a private attorney. No public funds are being used to compensate that attorney. Furthermore, no White House staff members are acting as lawyers for the President and the First Lady where there is no official nexus.

Thank you for your interest in this matter.

Sincerely,

Bernard W. Nussbaum
Counsel to the President

FEB 15 1994

The Honorable Frank R. Wolf
Member of Congress
U.S. House of Representatives
Washington, D.C. 20515

X000795

Beth

How did the
speech go?

^{Todd}
P.S. Did you
see the attached?

A Whitewater Whitewash

By ALFONSE D'AMATO

The American people have a right to know the facts about the Whitewater/Madison affair. They also deserve to know that laws will be enforced impartially even if that enforcement may touch upon powerful public officials. Judging from the defensive reaction of Democratic political operatives in recent days, something may well be rotten in Little Rock—and Washington.

Some have claimed that Congress must sit by idly until special counsel Robert Fiske completes his investigation—an investigation that could take years. Their rationale: Congressional intervention would compromise the integrity of his investigation. On the contrary, I believe Congress must use its oversight capacity to protect the integrity of any Whitewater/Madison investigation.

Last week, the Senate Banking Committee discovered a clear threat to the integrity of the Resolution Trust Corp.'s investigation—from top administration officials and political insiders.

The RTC's investigation may already have been compromised. In deeply disturbing testimony, Deputy Treasury Secretary Roger C. Altman confirmed that he and Treasury General Counsel Jean Hansen went to the White House to give a "heads-up" briefing. This briefing was attended by White House Counsel Bernard Nussbaum and an unnamed assistant, Deputy Chief of Staff Harold Ickes and the first lady's chief of staff, Margaret Williams.

Apparently, Mr. Altman believed that top White House legal and political advisers needed his guidance to understand "the legal and procedural framework within which the RTC was working" in connection with Madison. The White House now states falsely that Congress

and the media also received such briefings. But at the time this group was meeting at the White House, I was speaking out on the Senate floor about the RTC's failure to provide our committee with any information about its activities on the Madison/Whitewater mess. And I have yet to encounter a reporter covering this story who says he was briefed by the RTC, let alone its acting CEO, Mr. Altman.

Mr. Altman's apparent lapse of judgment triggers serious questions. Why did Mr. Nussbaum, as White House counsel, need to be briefed on the RTC's investigation of Madison? This investigation does not touch upon the president in his official capacity.

And what about Mr. Ickes and Ms. Williams? Why would these political operatives need to be briefed by a top agency official on that agency's investigation into a matter that has nothing to do with the executive office of the president? Ms. Williams, a former Democratic National Committee operative, had earlier joined Mr. Nussbaum in searching Vincent Foster's office. Why was this briefing attended by the Treasury general counsel, Ms. Hansen, when it dealt with matters within the RTC's authority?

Mr. Altman has finally recused himself from the Whitewater/Madison matter. Unfortunately, that does not answer questions about the propriety of this meeting, and his recusal cannot ensure that a fair and impartial investigation will be conducted. These are legitimate issues that warrant a congressional hearing.

The RTC's deputy CEO, John Ryan, recently wrote to me that "It is standard operating procedure not to discuss any matter relating to the review of potential civil claims of any institution" and that it was "inappropriate" to provide any "specifics" or any "information relating to the status of our review. . . ." Apparently, different standards may apply to discussions with the White House.

Sen. D'Amato, of New York, is the ranking Republican on the Banking Committee.



Roger Altman

The benign assessment of Russia's strategic importance is as startling and call for American isolationism gagement as we have seen since leading up to World War II. Such that Russian nationalism has a limited dimension is to belittle what been the only consistent thread through successive czarist, Communist and post Communist regimes, namely ethnic and geopolitical imperialism. The process of containing Russian imperialism has been a major focus of Western diplomatic and strategic doctrine, since well before the first world war, through the Nazi-U.S.S.R. nonaggression pact, to Potsdam, the Berlin Airlift, NATO, the Cuban Missile Crisis and beyond.

The notion that Russian imperialism focuses exclusively on the "near abroad" would be a cruel irony to nations in the Baltic, Southeast Asia, the Mideast, Central Europe, Africa and the Americas that have either been directly subjugated by, or faced terrorism or threat from, Soviet client states, neighbors, proxies or funded insurgencies.

The danger of this complacent view is that it not only feeds those who would destroy Western defense capacity in the U.S. and among her allies, (including liberals, socialists and neo-conservatives here in Canada), but it provides an intellectual underpinning for the kind of disengagement the historic NATO failure to extend full membership to Eastern European suppliers underlines.

As mother Russia stoutly indicates its determination to defend ethnic Russians in the C.I.S., as Russian units open fire on a Japanese fishing trawler in disputed Asian waters, as Russian scientists who believe Russia has not fully complied with gas warfare agreements are put on trial—it is a signal of serious and dangerous weakness to have denied NATO membership to nations that have embraced democracy and freedom at serious economic cost to their people and short-term commercial prospects. To deny them membership in an alliance that provided mutual protection from invasion is to admit that any fresh strains of Russian imperialism can take as a given the new democracies of Eastern Europe, their former client states, the Baltics and the old Soviet Union constituency.

The genius of the common stand taken by President Reagan, Prime Minister Thatcher, President Kohl and Prime Minister Mulroney—along with other NATO leadership—was that it erected clear hurdles, both strategic and economic to continued Soviet militarism. An enlightened and often inspired Soviet leadership made the right choices. The notion that remov-

X000797

March 3, 1994

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BETH NOLAN
ASSOCIATE COUNSEL TO THE PRESIDENT

CHERYL MILLS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Contacts with Treasury Officials

This memorandum responds to your request for an independent review of three contacts between White House staff members and employees of the Treasury Department. In particular, you have asked whether White House employees violated any ethics laws or regulations by engaging in discussions with Treasury officials in response to inquiries they had received from the press and/or procedural issues that they had discussed with Congressional members and their staff.

I. Background

This memorandum is based upon the following understanding of the facts. The first contact with Treasury officials occurred on September 29, 1993, at the conclusion of a meeting on the Waco situation. Ms. Jean Hanson, General Counsel for the Treasury Department, approached Bernard Nussbaum, Counsel to the President, and informed him that the Resolution Trust Company ("RTC") was making a criminal referral to the Department of Justice in a matter involving Madison Guaranty. Ms. Hanson stated that the Clintons were not subjects or targets of the referral but that their names appeared on some checks made out to then Governor Clinton's gubernatorial re-election campaign. Ms. Hanson indicated that she was providing this information because of the likelihood of press inquiries to the White House on this matter. This contact lasted less than five minutes.

The second contact between White House and Treasury Department officials occurred on October 14, 1993. Ms. Hanson and Mr. Jack DeVore, [title], requested a meeting with the White House to address a press inquiry that the Treasury Department received from a reporter for the New York Times. The reporter had informed the Treasury Department that he had information that a number of criminal referrals had been forwarded from the RTC, including one in which four cashier's checks involving the President -- two payable to then Governor Bill Clinton and two to his gubernatorial re-election campaign -- were referenced. White House officials, including Mark Gearan, Bernard Nussbaum and Bruce Lindsey, met with Ms. Hanson, Mr. DeVore and Josh Steiner to discuss appropriate responses to the New York Times inquiry. This meeting lasted 30 minutes.

XOC0798

The third contact between the White House and Treasury Department officials occurred on [date]. Mr. Roger Altman, Deputy Secretary of the Treasury Department and Chief Executive Officer of RTC, made a request to the Chief of Staff's Office to meet with White House officials to brief them on procedural matters regarding Madison Guaranty. This meeting lasted approximately [time] minutes.

II. General Principles

We start from the proposition that the role of the White House Counsel's Office is to provide legal representation to the White House and its many officers and employees in their official capacities. That is, consistent with the District of Columbia Rules of Professional Conduct, the client of the Counsel's Office is the White House, see D.C. Rule of Professional Conduct 1.6(i), and the Counsel's Office "represents the [White House] acting through its "duly authorized constituents"--its officers and employees. D.C. Rule of Professional Conduct 1.13, Comment [7]. The President is the ultimate "client" of the Counsel's Office, because he has the paramount authority to direct the official activities of all White House officers and employees.

The President is "client," however, only in his official capacity as President. See D.C. Bar. Op. No. 148 (1985) (attorney in government agency represents the agency, not its employees as individuals).^{*} Therefore, matters that are entirely personal to the President require the assistance of private lawyers, as would be the case for any other federal officer. Applying this standard, for example, we know that the President is entitled to the full assistance of the Counsel's Office in furtherance of such official matters as exercise of the constitutional pardon power, but lawyers in the Counsel's Office may not serve as executors for the estate of a relative of the First Family, which would constitute providing services in a purely personal matter.

Between the two clear poles of "official" and "personal," however, lies territory that is not clearly charted. The President's personal and official roles are more blended than the role of any other federal official. Matters that are clearly personal and private for most people, including other senior federal officials -- federal income tax returns, for example -- are public for the President and therefore have an impact on the White House that gives them an official component. For that reason, while a private accountant prepares the President's income tax returns, it is appropriate for a White House lawyer

^{*} This conclusion could be different under a duly authorized program, such as the Department of Justice representation program, in which the government lawyer is assigned to provide individual representation to an officer or employee. See D.C. Rule of Professional Conduct 1.6, Comment [36]. No such program is at issue here.

X000799

also to review any issues that should be addressed before the return is filed and made public.

Similarly, matters involving Madison Guarantee while personal to the Clintons, also have a official component. It is personal to the President and First Lady in that it relates to matters prior to the time the President took office. However, agency investigations touching or affecting a sitting President, even in a personal matter, necessarily raise issues for the White House. For example, such matters generate numerous inquiries from the press and members of Congress, which necessitate official responses.

III. Review of the Treasury Contacts

The propriety of White House officials engaging in the contacts outlined above is dependent upon the presence of a legitimate official purpose. Based upon our understanding that these meetings were initiated by Treasury officials to respond to anticipated or actual inquiries from the press or to provide White House staff with information provided to the Congress and the press, we believe the necessary official nexus is present. Nonetheless, we think it important to examine and discuss below, whether under the specific circumstances, there was any violation of ethics regulations and laws by White House officials. We have reviewed the Standards of Ethical Conduct for Executive Branch Employees, 5 C.F.R. Part 2635, and the conflict of interest statutes, 18 U.S.C. §§ 202 - 209, and have identified the following provisions as potentially relevant to the contacts at issue: §§ 2635.101(b)(7); 101(b)(8); 101(b)(14); 501; 502; 702; 703; 705; and 18 U.S.C. §§ 205 & 208.

A. Use of Public Office for Private Gain

Under the Standards of Conduct, "an employee shall not use public office for his own private gain . . . nor for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity." 5 C.F.R. §§ 2635.101(b)(7) & 702.

We are not aware of any facts to suggest that any of the officials involved in the contacts with Treasury officials could achieve personal gain from this matter. None of the White House employees have a financial interest in Madison Guaranty."

** In a letter dated March 1, 1994, Congressman Leach suggests that ethics provisions would apply to issues of individual job security or promotion. While the Congressman's meaning is unclear to us, we assume he is suggesting that White House officials were acting for their own benefit because of
(continued...)

X000800

4

This provision also prohibits federal employees from acting for the private gain of others who are associated with them in a nongovernmental capacity. In the contacts at issue, none of the employees were operating on behalf of individuals with whom they are affiliated in their non-official (or private) capacity. Rather, White House staff were acting to respond to inquiries, actual or anticipated, which they would be called upon to respond to in their official capacity on behalf of the President.

B. Impartial and Non-preferential Treatment
Under the Standards of Conduct, an employee "shall act impartially and not give preferential treatment to any private organization or individual" [ite]

**(...continued)
their desire to please their superiors. There is no factual predicate for this assumption; nevertheless, we find it implausible that the ethics standards would require disqualification whenever an employee was interested in performing well and pleasing his or her official superiors. In fact, good government depends upon an employee performs so well that he or she is rewarded and promoted. Moreover, we have found no precedent for interpreting the rule in this manner.

X000801

THE WHITE HOUSE
WASHINGTON

February 10, 1994

Dear Congressman Lightfoot:

Thank you for your letter of January 11, which asks whether public funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

As I am sure you realize, an investigation affecting a sitting President necessarily requires the official attention of the White House staff, including the Office of the Counsel to the President. For example, the White House has been called upon to respond to various inquiries from members of Congress. Similarly, members of the press have made inquiries to the White House. These inquiries have required responses from the White House, including legal judgments on matters affecting the office of President of the United States.

As you know, however, the President and Mrs. Clinton are represented personally by a private attorney. No public funds are being used to compensate that attorney. Furthermore, no White House staff members are acting as lawyers for the President and the First Lady where there is no official nexus.

Thank you for your interest in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'BN', with a long horizontal line extending to the right.

Bernard W. Nussbaum
Counsel to the President

The Honorable Jim Lightfoot
Member of Congress
U.S. House of Representatives
Washington, D.C. 20515

050368cu

X000801C

Congress of the United States

House of Representatives

Washington, D.C. 20515

January 11, 1994

93 JAN 12 P 1:26

The Honorable Bernard W. Nussbaum
 Counsel to the President
 Second Floor, West Wing
 The White House
 Washington, D.C. 20500

Dear Mr. Nussbaum:

Recent statements from the White House have conveyed the impression that only private funds are being used to provide the President with legal assistance related to issues surrounding Whitewater Development Corporation and the former Madison Guaranty Savings and Loan.

Recent media reports, however, indicate considerable involvement of the White House Counsel's office, and possibly of other White House personnel.

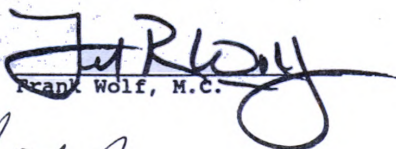
As part of our work on the House Appropriations Subcommittee with jurisdiction over White House spending, we would appreciate a clear, written statement that the former is indeed the case, and that no public funds are being utilized. This would greatly simplify any issues that might involve our Subcommittee.


If this is not the case, please advise us in writing of the exact nature and amount of public funds that are being used by the Office of the General Counsel and by other White House staff to work on the Whitewater case.

Thank you for your attention in this matter. We look forward to your reply.

Very truly yours


 Jim Lightfoot, M.C.


 Frank Wolf, M.C.


 Ernest Istook, Jr., M.C.

cc: Ms. Patsy Thomasson

REDACTED

XJ00802

To BN.

Date 2/4 Time 9:39

WHILE YOU WERE OUT

M Dennis Foreman

of _____

Phone 602-0283

Area Code	Number	Extension
TELEPHONED	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	URGENT	<input checked="" type="checkbox"/>
RETURNED YOUR CALL <input type="checkbox"/>		

Message He said it was urgent! He said Mr. Nussbaum said you should talk this morning about. He said it was subject Mr. Nussbaum said you should discuss last night.



AMPAD
EFFICIENCY

23-421 - 200 SETS
23-421 - 400 SETS

CARBONLESS

REDACTED

X000603

T
C
A
O
P
[
]
A
-
-
-
-

To B N
Date 2/9 Time 10:21

WHILE YOU WERE OUT

M DENNIS FOREMAN

of _____

Phone 627-0282

Area Code	Number	Extension
TELEPHONED		
PLEASE CALL		
CALLED TO SEE YOU		
WILL CALL AGAIN		
WANTS TO SEE YOU		
URGENT		

RETURNED YOUR CALL

Message _____

NEED TO SPEAK W/
YOU. URGENTLY

S
Operator



AMPAD
EFFICIENCY

23-421 - 200 SETS
23-421 - 400 SETS

CARBONLESS

REDACTED

X000804

To BETH
 Date 2/9 Time 10:40
WHILE YOU WERE OUT
 M. Dennis Foreman
 of _____
 Phone 627-6283

Area Code	Number	Extension
TELEPHONED		PLEASE CALL <input checked="" type="checkbox"/>
CALLED TO SEE YOU		WILL CALL AGAIN <input checked="" type="checkbox"/>
WANTS TO SEE YOU		URGENT <input checked="" type="checkbox"/>

RETURNED YOUR CALL ☐

Message _____
Wanted to add to
last message. He answered
letter at front page of
business section in Wash Post
Article: Nominee to FDIC Ricki Tige
 Operator S



AMPAD
EFFICIENCY®

23-421 - 200 SETS
23-421 - 400 SETS

CARBONLESS

X000805

THE WHITE HOUSE
WASHINGTON

March 1, 1994

MEMORANDUM FOR FILE

FROM: JOHN D. PODESTA
ASSISTANT TO THE PRESIDENT AND STAFF SECRETARY

W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: WHITEWATER--TRANSCRIPT OF SENATE BANKING COMMITTEE
HEARING

Attached please find the transcript of the testimony portion of the hearing before the Senate Banking Committee last Thursday, February 24, 1994.

The opening statements will not be available until the Committee releases the transcript.

W.N.E.

X000806

Copyright 1994 Federal Information Systems Corporation
Federal News Service

FEBRUARY 24, 1994, THURSDAY

SECTION: IN THE NEWS

LENGTH: 26366 words

HEADLINE: HEARING OF THE SENATE BANKING COMMITTEE

SUBJECT:

RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD SEMIANNUAL
REPORT CHAIRED BY: SENATOR DONALD RIEGLE (D-MI)

WITNESSES:

LLOYD BENTSEN, SECRETARY OF THE TREASURY

ROGER ALTMAN, INTERIM CEO, RESOLUTION TRUST CORPORATION

ACCOMPANIED BY:

ALAN GREENSPAN, CHAIRMAN, FEDERAL RESERVE BOARD

ANDREW HOVE, ACTING CHAIRMAN, FEDERAL INSURANCE DEPOSIT

CORPORATION JONATHAN FIECHTER, ACTING DIRECTOR, OFFICE OF THRIFT

SUPERVISION DIETRA FORD, EXECUTIVE DIRECTOR, THRIFT DEPOSITOR

PROTECTION BOARD 538 DIRKSEN SENATE OFFICE BUILDING

WASHINGTON, DC

BODY:

SEC. BENTSEN: Mr. Chairman, members of the committee, I have the Oversight Board members with me here -- Mr. Alan Greenspan, chairman of board of the Federal Reserve; Roger Altman, who's the interim CEO of the RTC. I've got Jonathan Fiechter, who's the acting director of the Office of Thrift Supervision; Andrew Hove, who's the acting chairman of the Federal Deposit Insurance Corporation. Also accompanying us is Dietra Ford, who's the executive director of the Oversight Board.

And I have a longer version for the record, but I'd like to summarize it, particularly with the lateness of the hour, if I might.

SEN. RIEGLE: We'll make your full report a part of the record, and we'd like your summary.

SEN. BENTSEN: Before I begin, and listening to the partisan exchange, let me thank the members of this committee for their bipartisan support last year, in the last session, to obtain the funding to finish the RTC job. I'm quite appreciative of that.

Let me tell you something you don't hear very often. We're not here to ask for more money. The funding -- (applause, laughter) -- the funding provided through the RTC Completion Act ought to be sufficient. In fact, they tell me this is the first time that the Oversight Board has been before you that it wasn't asking for additional money and funding. And I'm just very pleased to be able to inherit that honor.

X000007

I'm also happy to report that few S&Ls are failing, and 99 percent of private-sector thrifts are well or adequately capitalized. OVERSIGHT Let me review some of the numbers for you. Since the RTC was created in 1989, it's taken over 743 failed institutions and it's closed or sold 680 of them. In the process it protected nearly 23 million deposit accounts with an average balance of \$9,000. RTC made good on the government's guarantee of deposit insurance to millions of Americans nationwide. And, I might add, it did it with a minimum of disruption. A lot of the customers didn't even know that the RTC had taken over their S&L. The RTC also undertook the greatest liquidation in history, so far disposing of \$393 billion in assets for about 90 percent of their book value. Frankly, I couldn't believe that one. I made them go back and check it again for me. The RTC sold since its inception nearly 80,000 units as affordable housing. So at least tens of thousands of lower-income families have benefitted as this problem is being solved.

Now, crime is at the top of our agenda these days. We talk about violent crimes. Well, this scandal had criminals -- had white collar criminals. More than 1,500 persons were charged with major crimes involving S&Ls. Nearly 1,250 were convicted. And of those sentenced, more than 75 percent went to prison. And RTC has pursued several recoveries from wrong-doers with all involved agencies collecting nearly \$2 billion.

Mr. Chairman, when this administration took office the total cost of resolving the S&L problem was estimated at between \$100 and \$150 billion. When I testified just last March, we thought as much as 45 billion in additional funding would be needed. That was on top of the nearly 87 billion already appropriated.

A lot of people agreed with us. The Congressional Budget Office estimated 50 billion. The General Accounting Office had us around that level. And so did the House and the Senate budget committees. As RTC funding legislation moved through the Congress last year, constantly improving economic conditions resulted in record earnings for the S&L and the banking industries. By mid-November after lengthy deliberations in both houses, the funding bill provided \$18.3 billion, and that brought the total amount that's provided by Congress for the clean-up to \$105 billion, a figure on the low end of the estimate when this administration took office.

And I know the results could have been different -- easily. Depositors could have lost all their savings. Loss to the government could have been far greater, resolution of the problem could have taken much longer. But to the credit of a great many people, and they're seated in this committee, in addition, the problem is near resolution.

I'd like to give you some -- and I'd like to give some credit to the management of the RTC. And I think we'd sure better credit the economy. Deficit reduction has helped interest rates to fall. We've taken steps to increase the availability of credit, tackling unnecessary regulations and report requirements that discourage lenders from making loans to small business. And we'll continue to propose changes that will result in greater credit availability and efficiencies in the banking industry. This is why we want to sell a number of issues, including passage of the community development financial institutions legislation, which includes a balanced reduction and regulatory reform. I'll be before this committee next week with specifics on the

X000808

administration's proposal to reform and simplify the regulatory structure for depository institutions. Our proposal not only will eliminate unnecessary regulatory expenses which could result in the availability of greater credit, but as importantly, it can help avoid new crisis by putting a stop to inconsistent and confused regulation. But we'll talk more about that next week. But the point I want to make on deficit reduction is that the market responded, the economy responded. Housing starts and home sales are up, and that's sure good news when you're the RTC and you're trying to dispose of property. I can't help think back what a dramatic difference interest rates make. I used to chair a savings and loan. Sure glad I sold it when I came to the Senate. (Laughing.) But I'll tell you, not smart, just lucky! But I'll tell you -- (laughter). But I'll tell you, when you've got your mortgages at one rate and all the sudden long-term interest rates go substantially above that, you've got yourself a real problem in an S&L. And when you've got the government saying we'll guarantee the first 100,000, and you've got a small, new S&L, and then they have Wall Street bundle up hundreds of billions and send it to a little S&L. We saw that thing happen in Vernon, Texas. A good example of that. And then you see the others who are honestly trying to compete and what a hold it puts on them. Fortunately, we're seeing things go the other way with this substantial reduction in interest rates.

And I want to say to you, Senator Bennett, I've seen some of what you're talking about, too, where sometimes they were overzealous. And that balance is in part the concerns of what Senator Boxer has for those that have been ill-used and guilty of malfeasance. But lower interest rates and increased credit activity have brought about increased earnings for all types of financial institutions. Many S&Ls that may have been at risk are now making profits. But you and I know we can't predict what's going to happen between now and '95 when the RTC goes out of business. Nobody foresaw the floods and the earthquakes, and they had their economic consequences. We're not done yet.

Through '95, RTC must continue to protect depositors. They must dispose of some very hard-to-sell assets. And it must ensure its operations run effectively. It must work toward an orderly transition of its responsibilities to the FDIC. And it must never lose sight of its mandates to provide affordable housing and maximum minority participation, including implementation of provisions of the RTC Completion Act.

I've urged the RTC to work aggressively on the issue of minority participation. It's imperative that minority- and women-owned businesses have an ample opportunity to win contracts, to purchase assets and to acquire failed thrifts. In fact, the RTC is taking special care to meet the requirements of the completion act to provide preferences to minority institutions while applying the least-cost test.

Let me be more specific on some of those things I mentioned. The RTC has begun resolve 63 insolvent institutions now operating in conservatorship, which about 2.3 million deposit accounts. Some additional institutions may be transferred this year. If so, the RTC will make good on the government's guarantee to those insured depositors and any others who might yet fall under its jurisdiction.

Insofar as the remaining inventory of nearly 64 billion assets -- \$64 billion in assets, these, as

X000809

you said earlier, Mr. Chairman, are the most hard-to-sell properties that are left: real property and non-performing mortgages. While the improved economy helps sales, the potential loss to the taxpayers could be reduced if these assets are managed and sold efficiently. The RTC is working on improving its marketing and sales strategies and is seeking creative, yet sound techniques to maximize returns.

To fulfill its remaining mission, the RTC will benefit from good managers. Jack Ryan of OTS was appointed deputy CEO. Ellen Kukla (sp) of the OTS has been appointed general counsel. And Tom Horton has been promoted to acting senior vice president for asset management and sales. And I can tell you today that the administration expects to submit its nomination for a permanent chief executive shortly.

I thank Roger Altman for the service that he has done as the interim CEO. His term expires the end of March, and we hope by then to have a candidate. In line with the RTC Completion Act, Jack Ryan will serve as the interim CEO between the time Mr. Altman's term expires and the permanent CEO is confirmed. The Oversight Board will also make some appointments to the audit committee, which will be in operation soon.

I've asked Frank Raines (sp), vice chairman of Fannie Mae, to chair that one, and to serve as members we asked Jonathan Fiktar (sp) of OTS, Robert Larsen (sp), vice chairman of the Taubman (ph) Company and a former member of the Oversight Board. Mr. Larsen (sp) has also been renominated to serve on the Oversight Board, and I hope you'll be able to approve his nomination soon. The RTC will close down on December 31, 1995, one year earlier than originally thought, and planning for that is well underway. I expect the new management to work with the people at the FDIC in a cooperative way to carry out the transition of the RTC to the FDIC.

This past year the Oversight Board has also strengthened our staff reviews. I was being reminded of my testimony of last year and the recommendations and the improvements that we sought to bring about. We have done a number of them. We haven't completed them all. We're obviously still working at it, and we're scrutinizing some.

For instance, our staff has been monitoring the RTC's efforts to improve its contracting systems and its oversight. A review is being conducted to make sure policies are applied uniformly to all contractors and that contract oversight procedures provide effective review of performance. Another example: The staff has focused on the RTC's financial operating plan, its operating budget and all its borrowing activity, and our advisory boards are taking hard looks at the policies governing asset sales. Late last year, Ira Hall of IBM USA was named chairperson of the National Advisory Board, bringing considerable financial expertise and private sector expertise to that process.

These boards meet regularly at sites nationwide to discuss progress and to hear testimony from witnesses on how these regulations and procedures affect different parts of the country. The RTC listens to their advice, and they have been instrumental in advancing affordable housing opportunities. Our advisory board structure will change this year.

X000010

The Completion Act created a new affordable housing authority board to replace the National Housing Advisory Board. That new board will be made up of nine members, including the secretary of HUD. They will be providing advice on affordable housing programs, and how to merge RTC programs with the FDIC programs after the shutdown, and we're looking forward to working with them. Now, last year at this hearing, as I said, I announced those ten goals insofar as improving or reforming RTC management -- things like putting in place a system to ensure prompt follow-up on findings of the inspector general and the General Accounting Office, strengthening the contracting system and oversight of its private sector contractors, appointing a chief financial officer. The RTC Completion Act mandated and expanded on those reform, and RTC is moving to meet the standards that Congress determined and set.

I'm pleased with the results, and in a minute, I'd like Roger Altman to discuss them with you one by one. I hope you especially note what we've done on opportunities for minority- and women-owned businesses and in strengthening our internal accounting and administrative control systems. I personally believe that these programs are an important part of RTC duties and that this is an area it must continue to focus on to ensure legislative mandates are carried out. And Mr. Chairman, let me end on this. I believe that the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns that you folks in the Congress raised, concerns by the GAO and by the oversight board. You bet there've been a lot of problems, but the organization has been relatively free from partisan conflict. Republicans and Democrats alike have been committed to fulfilling the government's obligations to protect depositors at the least cost to the taxpayers. In '94 we'll keep working at that one, and looking to '95, well, I believe the RTC will be more than happy to be out of business. I sure will be happy. Thank you. Now let me turn it over to Mr. Altman.

SEN. RIEGLE: Mr. Altman, we'd like to hear from you now.

MR. ALTMAN: Thank you, Mr. Chairman. I, too, have a longer statement which, with your permission --

SEN. RIEGLE: Without objection.

MR. ALTMAN: -- that I hope would be entered into the Record, and I'll summarize it here. This is probably the final time I will appear before the Congress in any RTC capacity. Under the terms of the Vacancy Act, my appointment would expire on March 30. There are limited circumstances under which that could be extended, but I don't believe they will apply. As Secretary Bentsen said, it's our intention to nominate a permanent chief executive as soon as possible.

Last year we chose I think a fine candidate, Stanley Tate (sp). He withdrew, which was not at our urging, and I believe he would have done a good job. I also want to join with Secretary Bentsen in thanking the entire committee for its bipartisan efforts to secure funding through the completion act passed late last year.

I'd also like to note that the RTC has taken special efforts to be responsive relative to the

X000811

California earthquake. Foreclosures in those effective areas have been delayed, home owners are being helped to avoid delinquencies on mortgages held by the RTC, and we notified FEMA of 54 multifamily units and 47 single family residences that can be made available for temporary housing. Now, on to the status report.

Mr. Chairman, the S&L collapse required the biggest financial rescue probably in world history. Including money spent by the FSLIC beginning in 1988 it's expected to cost the American taxpayers the staggering sum of about \$150 billion. To put that into perspective, at today's budget levels that's equivalent to about 45 years of Head Start, about nine years of Aid to Families with Dependent Children. And at a time when we all struggle to finance federal support of vital activities from national security to education, these are sobering comparisons. I'm sure all of use would agree on a bipartisan basis to make every effort to ensure that such a fiasco is never repeated. When we inherited responsibility for this agency, it was not in sound condition. It was one of the largest contracting organizations of all time. But it had poor contracting procedures. It was selling assets in massive blocs, denying local investors a shot at local properties which they knew best. And despite being larger than almost any American financial institution in the private sector, any bank or any securities firm, it had no full-time chief financial officer, no permanent general counsel, and it had no business plan. So we determined to concentrate on repairing the organization and when Secretary Bentsen first testified before this committee, almost exactly a year ago, he outlined a series of management reforms to which we committed ourselves, and I'd like to very quickly just review some of those. A full-fledged review of all 21 of them is appended to my statement.

Contracting. We found that the agency's contract award procedures had often been violated in the past, and our first action there was to mandate compliance. Some of the compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them. Obviously, in the event of a compliance problem, the employee then had little incentive to draw attention to it. So the Office of Contracts has been reorganized into two separate units; one for contract solicitation and award, and another for contract administration, to avoid conflict, and the scope of contracting oversight has been substantially expanded. Among other things, the staff there has been more than doubled, and reviews of nearly 500 outstanding contracts were undertaken last year.

Next, audits. A new reporting system has been implemented to ensure that management responds to the concerns raised by auditors. And that system now tracks and updates the status of all inspector general, GAO and internal RTC findings and recommendations. And I'm pleased to say that the RTC today is current in following up on almost all GAO and OIG findings. Business plan. We completed a comprehensive business plan. We provided copies of that to this committee. It is a highly detailed and, I think, objectively speaking, good piece of work. It's intended to be a living document and we're going to update it regularly as conditions warrant.

Chief financial officer. Donna Cunningham, our chief financial officer, has been on board for about eight months. She's taken that helm very ably, as reflected in a series of improvements in the internal controls in the organization.

X000012

The professional liability section. This has been a particularly troubled area of RTC operations. There have been complaints from both sides of the spectrum, as the comments already here today illustrate; complaints that the RTC was unfairly pursuing former S&L directors who had no real roles in those organizations and, on the other side, complaints that the RTC was not sufficiently zealous in pursuing the real crooks.

As GAO recognized in its mid-'93 report, the primary problems have involved inadequate staffing and an overall lack of experienced attorneys and the temporary nature of the RTC has made it particularly difficult from a recruiting point of view. But we have worked hard to increase the size and the training of the staff in this area. We currently have the highest total of attorneys on board in the agency's history. Moreover, senior RTC and FDIC officials are planning to merge the RTC unit here, the PLS unit, with its counterpart in the FDIC, recognizing that the FDIC is a source of experienced attorneys in this area.

I also want to say that effective prosecution of PLS claims continues to be one of the RTC's highest priorities.

Secretary Bentsen referred to our having formed an audit committee and appointed its members. We have also established a joint coordinating committee with the FDIC for purposes of planning the transition or portions of the RTC back into the FDIC by the end of '95.

I'd like to make a special set of comments about expanded opportunities for minorities and women. That's been one of our highest priorities, as Secretary Bentsen said. First of all, we elevated the minority and women's program to the divisional level, put the head of it on the executive committee reporting directly to the CEO. We took action to expand the number of minority- and women-owned businesses receiving RTC contract solicitations. And there are now more than 1,100 of them in our database.

Let me say a couple of words about the record. On a cumulative basis since inception of the \$3.7 billion awarded in nonlegal fees, \$800 million have been awarded to minority- and women-owned businesses, 21 percent. Take a look at last year. We paid nonlegal fees of \$500 million. Minority- and women-owned businesses received 31 percent of those. We also encouraged efforts to encourage the use of minority- and women-owned law firms on the legal side, as far as legal fees are concerned. Last year, such firms received \$54 million, or 13 percent, of all legal fees from us, a big increase over the '92 level. And within the category of minority- and women-owned law firms, minority-owned law firms received \$36 million, far above the \$23 million of a year before. I think the entire RTC is quite proud at the sharply increased levels of minority and women's participation in all of the fee-generating activities of the agency, and details on that are also appended to my statement. Turning briefly to operations and financial issues, Secretary Bentsen cited a series of statistics relative to the amounts of institutions which have been resolved since inception. To me the most important statistic is \$9,000. That's the average balance in institutions which have been resolved. And for those who think this has been a bailout of the rich and famous, I think that's a pretty telling number.

X000813

We have 63 institutions under conservatorship today, \$18 billion of deposits. Now that the Completion Act is law, we're in the process of marketing these remaining conservatorships. We think these 63 will be resolved, Mr. Chairman, by the summer of this year, and it should cost \$9 billion to \$11 billion to do that.

On the asset sale side, we exceeded the targets we initially set last year. Book value reductions, \$63 billion; cash proceeds, 76 percent of that. That's a recovery rate below previous years because now we're down to poorer-quality assets, hard-to-sell assets. For this year, '94, we expected to reduce the book value of our inventory by \$43 billion, cash proceeds \$29 billion, projected recovery rate, 66 percent.

Now, on this asset sales side, one of things we did was to put in place a small investor program because, if I've heard anything in this past year in this capacity, it was that local investors were not -- did not have a shot at local properties which they knew best. So we took steps to ensure that assets would be available for sale individually to small investors with moderate levels of capital. Under this program, individual offerings of real estate properties have been emphasized. Underscore "individual." Auctions and sealed-bid sales have become more frequent and geographically focused. Smaller loan pools are being offered to allow buyers to purchase smaller, more geographically segmented groups of loans. And I'm pleased to say that at the most recent non-performing loan auction, in August last year, a third of the winners were new buyers who had not participated before, and the new bidders, overall bidders were for the most part smaller companies with a much higher preference for small loan pools and were most interested in buying geographically-focused loan packages located in their own areas.

Affordable housing -- Secretary Bentsen noted this -- since inception we've sold over 77,000 units, for a total of \$1.2 billion. The average annual income of households purchasing in that program has been about \$24,000, which, by the way, is 61 percent of the national median family income. Finally, Mr. Chairman, the issue of whistle-blowing.

As was noted earlier, last September this committee held oversight hearings where a variety of allegations were made, including retaliation against whistle-blowers.

Now, let me emphasize in the strongest terms, we support protections for whistle-blowers and have taken several actions to address those allegations. I issued a memorandum on October 4th to all RTC employees strongly reiterating our policy of prohibiting retaliation against whistle-blowers. We established an employee ombudsman program to augment the efforts of the inspector general in gathering all types of employee allegations. That ombudsman reports directly to the CEO on a weekly basis, and I think that program is working pretty well, because as of February 15th we'd received 116 inquiries, 96 of which had been closed and 20 of which were still pending.

We also had conversations in person and by telephone with six of the individuals who testified here before this committee. And during these interviews we solicited comments, feedback, and suggestions from them on how best to remedy the problems which they raised. And a number of those interviews were insightful and have been taken into account in our

X000814

efforts to remedy some of the management problems at the RTC. And I just want to underscore how seriously we have taken these allegations and that hundreds of hours have been spent working to understand and resolve them.

In closing, the Completion Act requires the RTC to terminate on December 31st, 1995. We will make that, there is no question that we will make that, and I think it will be a happy day for all concerned, especially the American taxpayer. Thank you.

SEN. RIEGLE: Thank you very much. We're going to now proceed with the questions, and we'll go with the normal five-minute time periods.

Chairman Greenspan, let me start with you. The Federal Reserve, of course, has raised interest rates earlier this month, and you just indicated publicly again that further increases are likely. And we know in the past that rising interest rates have had the effect of causing significant problems for thrifts. Now, obviously, the amount is highly relevant. But my question to you would be what effect are these higher interest rates likely to have on the RTC and, for that matter, on the future health of the thrift industry, which is still trying to work its way back?

MR. GREENSPAN: Mr. Chairman, I think you raise a very important question, because one of the lessons of this whole experience has been that we have -- we've put into place in the early post-war years an institution which was a specialized institution, one which could not function in a period of significant inflationary imbalances, an institution which had long-term assets and short-term liabilities. And, as the secretary indicated, when interest rates generally go up that institution is pressed as, indeed, we saw in an extraordinary sense in the period 1979-1980.

One of the things that is very important that we not allow to happen again is that extraordinary type of inflationary imbalance which was so destructive to those types of institutions. To be sure, savings and loans as a consequence of that have restructured their balance to a significant extent and the maturity mismatch is not of the size that it was previously.

Nonetheless, should interest rates rise significantly, then I think it does put those institutions in a very difficult position. It's been the concern of the Federal Reserve that we endeavor to fend off any such types of inflationary instabilities, and the actions that we took -- we took on February 4th, and the general discussion which I outlined to the House Banking Committee's subcommittee in trying to comprehend the type of problems that may be out there, were put forward precisely to prevent the types of difficulties which so debilitated the savings and loans.

To date, the effects on these institutions, of course, have been minimal, and we don't expect to see any particular problems emerge on that, but I would like to call -- ask my colleague, Jon Fiechter, what he sees, he's looking at these institutions in a much more detailed way than I.

X000815

MR. FIECHTER: I would echo what Chairman Greenspan said. One -- well, first, clearly a major risk in the thrift industry, given the nature of the business, is interest rates, but a real difference between the thrift today versus the thrift of the late '70s that ran into so much difficulty when the -- there was the rate (spike ?) in the early '80s, is that restructuring both of assets and liabilities, there are a lot of thrifts now that won't hold fixed rate mortgages any longer because they went through the early '80s. Also, as a consequence of (rate Q ?), institutions are able to much better manage their liabilities. As you know, Mr. Chairman, as a consequence of FDICIA, OTS has spent a lot of time on interest rate risk. We have a fairly extensive model, and in anticipation of a question such as this, I asked the staff based on the information the thrifts now provide what would be the effect of a 200-basis-point increase in interest rates if it were to happen as a shock -- sort of an across-the-board increase, but I don't think we're talking about that type of change. Only ten institutions would fail their current capital requirements.

None of them would go below 2 percent capital, however. And while it's a very uncertain world we live in, the analysis that we've done has suggested that at least in the numbers that we're talking about today, the thrift industry is in a much better position to handle rate increases going forward.

SEN. RIEGLE: I think that's an important response because I think it shows as well that in re-engineering, through FIRREA and then FDICIA, the arrangements that the general strategy is working. Now, if we get overtaken by, you know, events that were to drive interest rates above 200 basis points then we're into a different zone. But let's hope we're not going to deal with that. Chairman Greenspan, let me ask you one other question. This issue has obviously gotten a lot of attention here this morning. Are you satisfied with the way the Madison Guaranty issue has been handled by the RTC?

MR. GREENSPAN: The oversight board has, as far as I'm concerned, had no relationship with the Madison issue because that is a special case which is handled by the RTC directly. And I must say, I have not followed it in any manner which would enable me to address the question in a useful manner for you. SEN. RIEGLE: Senator D'Amato?

SEN. ALFONSE D'AMATO (R-NY): Thank you, Mr. Chairman.

Mr. Hove, on August 10th, 1989, there was a letter written to Mr. John O'Donnell by a Ken K. Schenck (sp). He's a credit specialist. I don't know whether you've seen this letter in your reviews of this whole matter, but just let me read you the last paragraph.

"In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in the day-to-day operations. We are making this information available in detail to Mr. Hubbell." Now listen to this sentence: "To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging, however, I would like someone with a wider scope of authority to review the situation and possibly eliminate this conflict." Here's a credit specialist who's telling you what the real world is about. He was there.

Now, let me go on. In the report released by the FDIC -- eight pages of what I think is the

X000816

most incredible whitewash of Whitewatergate that I've seen. This is incredible -- incredible. And I've spoken to you just briefly before and I told you what I'm going to ask you. Page six, the bottom: "In addition, we have found no evidence that the firm had a close relationship with the S&L which might call into question its independence."

I mean, I have to tell you, given the information that your people were reporting back to Mr. O'Donnell, FDIC S&L project area coordinator, August 10th, 1989, given this incredible -- I'd say the FDIC makes an assertion that the Rose Law Firm did not maintain a close relationship with Madison Guaranty. That's incredulous in light of the fact that they had a monthly retainer with them for 15 months for several years earlier. I mean, how do you come to this conclusion?

Now let me ask you one other thing. Is it true that no documents were reviewed as part of the FDIC's internal review which was conducted by your law department? Is that true?

MR. HOVE: Let me respond to your question in the order that you gave them. You first talked about Mr. Hubbell and his relationship with the suit -- with the Frost accounting firm.

SEN. D'AMATO: Have you seen this memo?

MR. HOVE: I have not seen that memo.

SEN. D'AMATO: Let's have staff give a copy of this memo to Mr. Hove, please.

MR. HOVE: Let me respond to that.

SEN. D'AMATO: Would you like to look at that last paragraph and let me know whether or not your people, in conducting this review have seen this? It goes back to 1989. And the person who sends it says it would be naive to think that Mr. Hubbell would not pass this information on to his family.

MR. HOVE: But let me respond by saying that even if he had the issue between Mr. Ward, who is Mr. Hubbell's father-in-law, and the Madison Guaranty had been already decided, and Mr. Ward had a judgment at that time against Madison. That case was on appeal, and therefore, any information that Mr. Hubbell could obtain, even if he would obtain it, and give it to his father-in-law would not be admissible, would not be in the appeal process, even if he had had the information to give to him.

SEN. D'AMATO: Mr. Hove, did you ask you, did read page six, the bottom of your report? Because we don't have much time. So I'm going to -- it says, "We find no evidence that the firm had a close relationship with the S&L." Do you really believe that to be the case? Do you really believe that a monthly retainer that Hillary Rodham Clinton had did not establish a close relationship? Are you really suggesting that there was none?

MR. HOVE: Her relationship --

X000817

SEN. D'AMATO: Is that credible in light of what you know? MR. HOVE: Her relationship with Madison was on an issue that was in a state agency and not with the federal government. It was not with the FDIC. And our case was not against Madison. Our case was against the Frost Law Firm -- or over the Frost accounting firm. In addition, we find no evidence that the firm had a close relationship with the S&L, which might call into question its independence. I mean, are you serious? I mean, that is a conclusion that was made. Let me tell you, it was made by your legal department. Let's go into something else. As part of last year's RTC Act, we have an inspector general that was created in the FDIC. Was the FDIC inspector general involved in this review?

MR. FIECHTER: No, sir. The review was started at your request, if you recall. I had indicated to you in my confirmation hearing that we were undergoing a review by our legal division as to what was the policy, the conflict policy that may be in effect between the Rose law firm and the FDIC in the lawsuit that Rose was doing for the FDIC against the Frost accounting firm. SEN. D'AMATO: Let me ask you this. Do you plan to ask the inspector general's office to analyze the procedures used by the FDIC legal staff in conducting this internal review and in essence to review this matter?

MR. FIECHTER: I would do that if the committee requested that. SEN. D'AMATO: Well, I'm requesting it, and I would suggest that you didn't need -- you wouldn't need the committee to ask you to do this. I'd suggest to you that it's your job to do it. I'd suggest to you that when you have such obvious areas of conflict in this report, when you're saying that there was no close relationship, when you're suggesting that Webb Hubbell would not and was not in the position to give any information to his father-in-law, that is incredulous. And if you don't have an inspector general looking to something like this, then what do you have him for? And what do you have? You have staff people who are going to make -- who make this kind of determination?

Now, I have to tell you you will be doing yourself and the FDIC, I think, a great, great damage if you just think that you're going to let it rest on this eight pages of sophomoric, legalistic mumble jumble that doesn't hold water. And I've just looked at this report. I've seen some occasion to see it in the newspaper. This is the first time I've had an opportunity to review it personally this morning, and it's shockingly inept. Now, question. Do you intend, not by way of this committee instructing you, to put this matter, and don't you think it's appropriate that it be submitted to the inspector general? Yes or no?

MR. FIECHTER: Senator, we've been reviewing this to review our procedures, to review our procedures with conflicts, with conflicts not only with the Rose law firm but every law firm that we deal with. And our procedure is to deal not only with the actual conflicts but also to deal with the appearance of conflicts. And in this case had we done that, had we dealt with the appearance of conflicts, it is likely that the appearance would have been different -- the conclusion may have been different. But Senator, this has been several years ago. At that time we had many cases coming in to us as a result of the savings and loan failures, and the conflict, under the rules that we were dealing with at that time, did not present any conflict of interest from the Rose law firm suing the Frost accounting firm.

X000818

SEN. D'AMATO: It's what we're doing today. Today you're saying there may be a conflict back then because they didn't have clear rules spelled out. Today you're saying there may be a conflict back then because they didn't have clear rules spelled out. Now let me tell you whether it smells today -- and it smelled then -- I don't want to get into this legalese that maybe -- I want to know if you're going to ask the inspector general to review this matter. That's a question.

MR. HOVE: I will do that if committee requests it.

SEN. D'AMATO: Well, Mr. Chairman, I would at this point in time move that we ask that this matter be reviewed by the inspector general. Now this is not going to interfere with any federal prosecution that's taking place, but it's a question of ascertaining whether or not we're getting the facts. It's a question of whether or not legal counsel has analyzed all the documents. I don't know -- I read in one news account that says that no documents were received as part of the FDIC's internal review. I don't know whether that's true or not, but that's certainly something I intend to pursue.

SEN. RIEGLE: Yeah, let me just respond to your question because the time is up and I want to stay within these time periods or we'll -- we won't be able to move any at all here in an efficient way.

Let me take your request under review. I'm not sure but what a request from a single senator may be sufficient to -- in asking for an inspector general review. I don't know without sort of looking at our past practices and precedents, but let us research that question.

SEN. D'AMATO: Let me thank you for the manner in which you've handled it, but I have to tell you something. I'm wondering why when I asked you a question, yes or no, would you undertake this -- and Mr. Hove, before you answered, the fellow behind you with the glasses who has got a lot of hair I wish I had, you know, came up and told you what to say. Now, can I ask what is your title and what is your responsibility?

MR. : The acting general counsel.

SEN. D'AMATO: You're the acting general counsel. Well, you know, sir, whether or not you're going to ask, it seems to me for this to be reviewed is a matter if you see that the propriety of this report, the integrity, the correctness of it can be substantiated. And it would seem to me that you'd want to do that.

MR. HOVE: Well, let --

SEN. D'AMATO: It would seem to me that without counsel coming to you and saying whether -- you know, you can wriggle out by saying that the committee has to ask. And I appreciate the chairman's response, I really do.

But I just want to make that observation, Mr. Hove. I find your response totally unacceptable.

X000819

MR. HOVE: Mr. Chairman?

SEN. RIEGLE: We'll let -- I want to move ahead to Senator Kerry, who is next, and if you want to make a response, certainly --

MR. HOVE: Yes, I would like to, and first of all, all the documents, everything that we have discovered is available to the special counsel, and we will make that available to the special counsel. I will commit to you that I will ask the inspector general to undertake an investigation.

SEN. D'AMATO: Thank you. Thank you very much. And I think you have done the administration a service, yourself, the FDIC, and I applaud you for that. Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Kerry?

SEN. KERRY: Mr. Hove, you were originally appointed to your position by President Bush, weren't you?

MR. : That's correct.

SEN. KERRY: So you're a holdover from the Bush administration then. There's no special affiliation you have with President Clinton, is that correct? MR. : That's correct.

SEN. KERRY: I think it's a fair issue always as to what the level of review is, as to any institution, if it takes place. And I've certainly shared a public expression of concern about what the inspector generals have done or not done. But I would like to see, if it's going to be done, as to Madison, I really want to see it done as to Columbia and as to some of the others. I just think we ought to cover the board here.

Secondly, I want to point out the distinction here which we keep missing. And one of my colleagues earlier said if this were President Reagan who did this and it was Silverado and so forth, we'd be screaming. Those were sitting presidents who made sitting decisions regarding a policy at that moment in time that cost the taxpayers a lot of money. There is no sitting presidential decision here, there is no issue of presidential policy here. There is no issue of taxpayers being cost money by an action taken by the president of the United States at this time. This happened in 1982 and 1986, before they became president. Now, an individual died and there's an investigation into the death of that individual and what may or may not happened is a fair question with respect to the death. And that's being investigated by the first special prosecutor of an opposing party that I can think of in my public memory in public office that's been appointed. That is the clear distinction here. And it is a very real distinction. No taxpayer money, no public issue of policy, no decision of a sitting president of the United States with respect to what this committee has oversight on and is here for today.

The question is legitimate: what took place, were there relationships previously -- these are

X000820

important as to all these banks. And it is fair for the special prosecutor to proceed on that, and it is even more important that this committee guarantee down the road that we investigate everything. I'm not sitting here saying something may not have taken place. In point of fact, there may be some indication that some folks outside of the White House may have some questions to answer. But there is no evidence whatsoever with respect to policy or taxpayer money or any decision made by the president of the United States that warrants this kind of inquiry.

Now, let me ask you, if I may, Mr. Altman, and Mr. Secretary, perhaps you can share with me, because one of our concerns is not just Madison but a whole lot of other institutions. I think 42 percent of the total losses fall in Texas alone. And there's a serious question about professional liability with respect to those institutions. I'd like to know, to date, what is the total amount of money recovered to date from directors or officers of these institutions nationally?

MR. ALTMAN(?): \$640 million, senator.

SEN. KERRY: Six hundred and forty million?

MR. ALTMAN(?): From institutions -- from institutions.

SEN. KERRY: And that's recovered through liability cases. MR. ALTMAN(?): Those are criminally related recoveries.

SEN. KERRY: What about civil? Is there any at this point? MR. ALTMAN(?): In addition to that figure I gave you, about \$745 million from civil-related recoveries.

SEN. KERRY: So we have in fact recovered to date a billion three, is that correct? It's not insignificant.

Can you break down where that has taken place? It's my understanding 42 percent of the total cost of bailout was Texas. Is there a corresponding recovery rate or any kind of rate you could give us as to where the most money came from?

MR. ALTMAN(?): I don't have information with me, senator, on state-by-state breakouts, and I don't know whether --

SEN. KERRY: Would it be possible just to get that at some point in time? MR. ALTMAN: We'll be happy to do our best to do so.

SEN. KERRY: I think it would be good to have a sense of that. It's my understanding that you were going to take a look at this question of sort of why the recovery rate may or may not have been low. Have you been able to draw any conclusions as to that? I mean, one of the things I heard is that a lot of the attorneys who came on believing that they were going to be able to engage in recovery grew so frustrated at not being able to do so in the early years that they left. I don't know if that's legitimate or if you've found other reasons, but could you

X000821

share with the committee what, if anything, you may have discovered with respect to the recovery process?

MR. ALTMAN: As I said in my opening comments, the entire PLS area has been a troubled one, and there have been complaints from both ends of the spectrum about overzealousness and about inadequate pursuit. And we've had as GAO in its report noted a high degree of turnover and difficulty retaining -- recruiting and retaining experienced attorneys because of the temporary nature of the RTC. After all, here we are with less than two years to go.

SEN. KERRY: Currently that's true. What about in eighty -- what about in the early stage -- late -- late '80s?

MR. ALTMAN: Well, of course, the RTC has always been intended to be a temporary agency, and I'd just refer you to the GAO report which concluded that that was a particular problem. And as I've mentioned, we've made a series of efforts to strengthen that, the most important of which is to hire a very good and very strong general counsel.

When we inherited responsibility for the RTC, despite its being such a large institution -- as I said, larger than almost any private financial institution in the country -- it didn't have a full-time general counsel. And that's a very important step we took. We've also got more PLS attorneys on board today than ever before in the history of the organization. So we're making every effort to try to fulfill all the responsibilities we have in this area. I don't think there's any way to know, senator -- or if there is, I don't know -- whether -- or what percentage of recoveries that have been made compared to the potential that an ideal effort, a perfect effort would have obtained. I don't -- I don't know the answer to that.

SEN. KERRY: Okay. My time is up. Thank you very much, Mr. Chairman.

SEN. RIEGLE: Thank you much, Senator Kerry.
Senator Bond is next.

SEN. CHRISTOPHER S. BOND (R-MO): Thank you very much, Mr. Chairman. Mr. Altman, are there special measures taken when in the resolution of a failed thrift you find it to be affiliated with a high profile individual? Someone in government, for example?

MR. ALTMAN: The procedures, Senator, which the RTC follows are intended to be identical in each case, and they certainly have been identical in the case discussed this morning.

SEN. BOND: After you discovered that the president of the United States's name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?

MR. ALTMAN: When the possibility of a criminal referral was brought to me, I took one step, and that was to instruct all the relevant RTC personnel to handle any judgments about criminal referral in the same exact fashion that they would be handled in any other PLS matter, no deviation whatsoever. As far as documents are concerned, the same thing.

X000822

SEN. BOND: You instructed them to handle the documents in the same way? MR.

ALTMAN: That's correct.

SEN. BOND: Were there any instructions received by you or to, your knowledge, anyone in your agency from the Department of Justice, the White House or special counsel with respect to the retention of documents?

MR. ALTMAN: To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that. With regard to Justice and the special counsel, I'm advised there have been conversations, the essence of which is that each party reminding the other not to take steps or release information which could jeopardize either party's investigation.

SEN. BOND: Given the facts I set out in my opening statement, we are concerned about whether all the documents are there, can you assure the committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners or business partners?

MR. ALTMAN: I have no knowledge whatsoever of any such effort. SEN. BOND: Has anyone in your agency, specifically the Department of Records Management, indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?

MR. ALTMAN: No.

SEN. BOND: You are absolutely sure that --

MR. ALTMAN: No, your question was: Has anybody indicated to me. SEN. BOND: All right.

MR. ALTMAN: The answer is no.

SEN. BOND: Would you inquire of your records management agency whether they have either, A, been given instructions about the handling of documents from somebody outside or if they have found any evidence of missing documents or find that there are documents apparently missing? If you would inquire of that and advise us if you do find that there is such information?

SEN. RIEGLE: I think the stenographer should note that he's nodding in the affirmative.

MR. HOVE: Yes.

SEN. BOND: Finally, will the RTC release copies of the initial September 1992 referral to the Department of Justice and copies of the second referral on October '93?

X000823

MR. HOVE: Senator, we're not in a position to release any documents that could have a negative impact on the investigation. I don't think you would want us to do that. And documents of that type that you're talking about fall into that category.

SEN. BOND: Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clinton in 1987. What steps have been taken by your agency to recover those files or to ascertain where those files might exist?

MR. HOVE: I have no knowledge of that matter.

SEN. BOND: Have you heard of the allegation?

MR. HOVE: Actually, no.

SEN. BOND: Mr. Altman, I know there's many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We don't know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and if so, to take appropriate steps to recover such documents. Finally, where are the documents being kept, and have they been thoroughly catalogued?

MR. ALTMAN (?): Well, I can assure you that all proper procedures relative to safeguarding of documents are being followed. We also have a responsibility in regard to any case to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain -- would help it reach a conclusion on a litigation decision, in this or any other matter, it makes a maximum effort to obtain.

SEN. BOND: But that -- you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton? MR. HOVE (?): None whatsoever.

SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BARBARA BOXER (D-CA): Thank you, Mr. Chairman. I want to pick up on where Senator D'Amato left off with Mr. Howe.

Mr. Howe, as a Bush appointee, you were familiar, obviously, with the laws in those days regarding conflicts of interest, and you said that at that time there had to be a direct conflict of interest. And the appearance of a conflict of interest now is considered important, but at that time, that's not the way things were done. Is that correct?

MR. HOWE: That is correct, Senator.

SEN. BOXER: So the law was strengthened, and now you have to look at the appearance of a conflict of interest.

X000824

MR. HOWE: It's not a law, it's a procedure that we have at the FDIC. SEN. BOXER: All right.

MR. HOWE: And at that time, we were looking only at the conflict of interest. Now we look not only at the conflict but also at the appearance of any conflict. SEN. BOXER: Right. Well, Mr. Chairman, I think this is a very important point. And what I would like to suggest is this; my colleague, Senator D'Amato, is very interested in this one particular S&L, which as I understand it, on the list of failures is the 194th largest in the country. I'm also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closures. For example, there were, as I understand it, 14 S&L failures that cost the taxpayers more than one billion [dollars] each. Of these mega failures, six were located in Texas, two in California, two in Arizona, one in New Jersey, one New York, one Florida and one Pennsylvania. And I would like to ask you -- and since I think the chairman said a senator can make a request -- that in these mega failures, these six, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and have a -- and at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that because I do have a big concern about the scams that were going on at that time.

MR. HOWE: Senator, many of these cases probably were the RTC cases and not the FDIC. The reason that we had this case was that we inherited the FSLIC cases in late 1988 or early 1989. This one came to us at a window of time prior to RTC's being created. So I think that your request might better be directed toward the RTC.

SEN. BOXER: Well then I will make that request to the RTC and ask that we have that report. Would I make that to Mr. Altman or Secretary Bentsen? Mr. Chairman, who do you think would be the appropriate party?

SEN. RIEGLE: Well, they both are hearing it, so --

SEN. BOXER: All right. Well, I will assume that will be done because, as I say, what I find most incredible is that there's this outrage directed at one particular situation, and it's so obvious why. You know, Mr. Chairman, I just want to say this, if I might -- I'll get back. I just have to say this, if I might. We all bring our experiences to the table, to our committees, to our work. And as I sat through this, I had the sense that this reminded me of something, the dynamics here, and it comes back to my being a mother and my experience in raising two kids, and when they wanted something, they made a pretty strong case.

And if they really wanted something, they stamped their feet. And if I gave them what they wanted, I expected them to be happy because I acceded to their request. And if they kept on stamping their feet, I'd tell them, "You're unreasonable." And if they kept it up, I'd take further action. But I think what I see going on here is that there was a demand for the best and most impartial person to look at a situation that obviously had a lot of political overtones, and in an attempt to handle it fairly, that request was granted, and we don't know the end result.

But what I see happening here, Mr. Chairman, is that people are still stamping their feet as if

X000825

nothing's been done. Something very important has been done. A lease has been taken on offices for something like four years. Eight attorneys are looking at this whole situation. Every question that's been asked by my colleagues is being looked at, not by a Democratic prosecutor, as Senator Kerry has pointed out, but by a Republican prosecutor, and someone who I believe has the faith of the American people, if not some of the senators here today, who seem to want to interfere in that investigation.

SEN. RIEGLE: Senator Boxer, I might just say, you may or may not have seen this in this morning's Washington Post, but there have been 25 FBI agents assigned to work with the special counsel, in addition to that legal staff that you cite.

SEN. BOXER: Yes. And, Mr. Chairman, I have to say that gives me great comfort. As much as I respect my colleagues' skill at questioning and badgering, I'd rather have this matter handled by someone who is so well-respected, cannot be accused of partisanship, as my colleagues on the Republican side here could be or I could be or Senator Kerry could be. So let's stop stamping our feet, and let's say this is good, that this investigation is going forward. And I really do have faith that we will find out what the problems were. And we don't know where it all will lead, but I don't think that turning this hearing into a browbeating of witnesses here does any good here at all.

I have some written questions I would like to submit, but I would have to say overall I am pleased with the report that we're getting. It seems to me we're moving along, perhaps, hopefully, under budget, moving forward with women and minorities and the things that many of us care about, and going after these crooks. Thank you.

SEN. RIEGLE: Do you want to say something? Otherwise I'm going here. MR. ALTMAN (?): No, no. I just wanted to note to Senator Boxer that we would respond to that question that you earlier asked.

SEN. BOXER: Thank you. I really look forward to seeing that for those six institutions. Thank you.

SEN. RIEGLE: Thank you.
Senator Bennett.

SEC. BENTSEN: Mr. Chairman, if I might --

SEN. RIEGLE: Uh, excuse me.

SEC. BENTSEN: (Off mike) -- my responsibilities as secretary of the treasury to deal in oversight, and I'm specifically precluded from intervening in individual cases. That's the responsibility of the RTC.

SEN. BOXER: But the RTC will do that. Thank you.

SEN. RIEGLE: Senator Bennett.

X000826

SEN. ROBERT F. BENNETT (R-UT): Thank you, Mr. Chairman. I agree with Senator Boxer: we all bring our personal experiences to this. I will try to stop stamping my feet. (Laughter.) I think that's an appropriate response, but --

SEN. BOXER: You've just been tapping your toe. (Laughter.)

SEN. BENNETT: I've just been tapping my toe. I must, however, out of my own experience share with you the number of times that I as a loyal Republican went to the White House in the Nixon administration and kept saying "You have got to get this out. You have got to find out who is behind this and tell the truth." And I kept getting told "This is a third-rate burglary that nobody cares about." I'm sure on a list of breaking and entering -- (laughs) -- this would have -- the Watergate breaking and entering would have been considered very, very minor. And people kept saying to me, "No, no, it'll all blow over." Well, it was members of your party, Senator Boxer, who kept stamping their feet and kept the thing up. A special prosecutor was appointed who in my recollection was a Democrat. I think Mr. Cox did not have very good Republican credentials when he was appointed to that circumstance.

SEN. KERRY: He was a Republican. One of the good ones from Massachusetts, but he was a Republican. (Laughter.)

SEN. BENNETT: He was a Republican? Well, I knew his law partner. He was a Democrat. We need not beat this further, but I do hope everybody understands that when there is an allegation of wrong-doing the smartest thing any politician can do is get all the facts out on the table. I've tried to do that. When I've been accused of making mistakes, I've discovered that the very best thing you can do politically is not try to cover it up, and that's the only advice I give my friends in this circumstance, having lived through the Watergate thing on the other side of it.

SEN. KERRY (?): Can I just take 30 seconds to say to my colleague that's exactly what we did. Senator Moynihan, national television, Senator Bradley, Senator Bob Kerrey, myself and others said appoint a special prosecutor, and indeed, the White House turned around and did it while the president was in Europe.

SEN. BENNETT: I understand all that, but I also understand that the stamping of the feet that went on prior to that probably had something to do with that decision. I don't think it was entirely sound public policy on the minds of the people on the other side.

Let's get back to the RTC if I can. I do want you to refer carefully to the article that I put in my opening statement. You've talked a great deal about minorities and women, and I yield to no one in my desire to see to it that there is fairness done.

The allegations that were made by the gentleman from Denver, however, is that there is serious reverse discrimination going on in the RTC, and that anyone who does not fall in that category cannot get a job and cannot get a promotion. And if that is true, that is something I think you should pay attention to. So I would ask you to review that.

X000827

Now, make reference to continuing sales, and again, this is a personal circumstance. I've had a number of people come to me in Utah and say here is a marvelous investment opportunity to pick up at fire sale prices properties that can be enormously valuable. I have decided finally to divorce myself from having to make any investment decisions, and I put all of my assets in a managed trust and trust the trustees of that trust to make those kinds of decisions. But I said to them I cannot personally invest in this because I sit on the Banking Committee and it's involved in oversight of the RTC and these are RTC properties.

But I did, prior to creating the managed trust for my assets, go through the process of looking at them, and as a businessman, I can say you really are moving them very rapidly because it struck me that some of the prices were indeed unduly low and that the RTC could in fact have gotten a better price almost as quickly if not just as quickly as they were getting for some of these properties. Do you have a sense on that issue? I'm not accusing you of anything, I simply want you to talk about it.

MR. ALTMAN: Well, first of all, Senator, we have a statutory responsibility to maximize recovery for the taxpayer, so we must pursue sale techniques which respond to that goal. Second, all RTC assets, for practical purposes, are sold at auction, auction of one kind or another. So rather by definition, the market -- the price which the market establishes on that day is the price. It's always possible to look back on any transaction and say you should have done it later or you should have done it earlier, but fundamentally all of our sales are on an auction-style basis. I think the only other point I would make is that we're now in -- we now -- our inventory today is of the harder-to-sell variety as we're getting down toward the end. So our recovery rates, as I mentioned in my statement, are lower. I think last year we recovered at a rate of 76 percent of book value, and this year it'll be in the mid sixties. The character --

SEN. BENNETT: Let me just go back to your earlier statement. I understand what you're saying here, and I don't want to be argumentative about it. One instance, we were told -- or I was told that while it was technically an auction, the RTC had determined the price and that, if I would simply submit a bid for this price, I would be guaranteed to get it, that the RTC would not entertain any other requests. And I turned it down, as I say, for the reasons I've described, although I'll say to my colleagues, the ethics committee told me I need not have done that. I could have made the investment. I decided to avoid the stamping of feet later on in some future campaign in Utah. I would not run the risk. But it was my understanding that the people who did ultimately pick up the property did it for the price that we were told was the price. And we were told, "Yes, this is technically an auction; there will be a sealed bid, but this is the sealed bid we want and if you submit it at that price we can guarantee that you will get it."

MR. ALTMAN: I'd like to make points. The first is -- that's not how it's supposed to work, and if it worked that way -- just taking your comments in their entirety -- it should not have. Second, the RTC does reserve the right to reject bids and to establish in effect reserve prices or floors. So, it isn't the case -- it isn't always the case that whatever the high bid is it's accepted. But, there should never be an auction where any such indication, any such knowledge is provided beforehand; if it was, it was a mistake and shouldn't have happened.

X000828

SEN. BENNETT: I'll just assume that it was a mistake in a particular circumstance, and I'm grateful to you for your response.

SEN. RIEGLE: Well, and perhaps a look could be taken at what may have been going on there, because that's not -- you know, let's not have it happen again. Senator Sarbanes was not given a chance, was not here in the sequence to give an opening statement and has asked to do so and I'm going to acknowledge that as I do with everyone. And then after he's done that, we'll start his time clock on questions. Senator Sarbanes.

SEN. PAUL SARBANES (D-MD): Mr. Chairman, I'll be brief. I don't want to impose on my colleagues, but I can't forego the opportunity with Chairman Greenspan here before us not to talk about interest rates just briefly, since I think they're so essentially involved with where the economy may be going. And I just want to -- I want to make a statement about that. I've met with the chairman from time to time, both privately and of course in public sessions, and I've raised with him the concern that a hike in short-term rates would raise long-term rates. The chairman's position has been, as I understand it, that when short-term rates go up long-term rates would initially rise but that within a few weeks or so they would settle back down to a level near where they had been when short-term rates were raised. We then contacted the Fed for the analysis that in effect was the underpinning for this statement. We've had difficulty getting that analysis, but it's finally been forthcoming. And as the Fed says, and I quote, the Fed staff, "As you have noted, short- and long-term rates do tend to move together." They then go on to make a rather subtle argument that to the extent that the Fed is ahead of the curve the response of long-term rates is less than when the Fed is moving too little too late, in responding to a build-up of inflationary pressure. So in a sense, they're shifting, as I understand it, the position that was asserted to me by the chairman.

On the morning of February 4th when the Federal Open Market Committee raised the Fed fund rates from 3 to 3-1/4 percent, the 30-year bond rate stood at 6.30 percent -- 6.30. Since that time, long-term rates have risen steadily. As of the close of business yesterday, the 30-year bond rate was 6.65 percent. Thus, since Fed funds were raised, long-term rates have risen by 35 basis points; in other words, more than the 25-basis-point increase in short-term rates. Now last summer at a hearing with Henry Kauffman (sp) and Paul Samuelson (sp), copies of which testimony were sent to the Fed and with a request that it be distributed to members of the Open Market Committee -- Henry Kauffman (sp) argued that raising short-term rates could lead to higher long-term rates; in other words, the contrary of this position that was asserted that if you take up short-term rates, you can bring down long-term rates. And I quote Kauffman (sp). "I also take issue with the assertion that a small increase in the Fed fund rate this summer would be welcome by the financial markets and would accordingly lead to a decline in bond yields. Perhaps. But equally likely is that the bond market would interpret such a rise in the federal funds rate as the first of a number of future increases, and market participants might easily react by pushing bond yields higher. Under that scenario, the rise in the federal funds rate could magnify inflationary expectations, precipitating a sell-off of bonds."

Now just today, Hobart Rowen, one of our nation's most perceptive economic commentators, has an article in the Washington Post headed, "The Fed Meddles," and I just want to quote

X000829

from it briefly. "As it has many times in the past, the Federal Reserve Board is taking the country down the wrong road by raising interest rates. It has violated the dictum, 'If it ain't broke, don't fix it,' and as a consequence, the smooth recovery from recession that has cheered business and consumers over the past year is being threatened. "Fed Chairman Alan Greenspan told the Joint Economic Committee in widely analyzed testimony January 31 that the central bank, which had allowed interest rates to fall to record lows, would not change policy to slow economic growth. But four days later, on February 4th, the Fed raised short-term interest rates by one-quarter of a point in a quote, 'preemptive strike,' unquote, against future inflation. To make sure there was no doubt in the markets that the Fed had decided to interrupt the easy money pattern, Greenspan publicly announced the move. "In new testimony this week, Greenspan failed to justify the Fed's action. He admitted that there was no discernible inflation, that wages are not moving up, that there is virtually no fear the economy is growing fast enough to make overheating a danger."

Now, the whole problem here -- and I -- this is to close this statement, and then I have just a couple of questions to put to Mr. Altman. I won't take anywhere near my question time because I -- is all -- it's all encapsulated in this -- in this cartoon, which shows this truck moving down the road. It says "Economy". And the economy has been moving down the road, and we all want to see that. The driver here has got his hands up to his head in horror. He's slamming on the brakes. As you can see, "Brake. Screech," bringing this truck labeled "The Economy" to a halt. And the reason he's doing it is because out here in the middle of the street is a man labelled "Greenspan". (Laughter.) And he's bending over here. He's out in the middle of the road out in front of the truck, obviously forcing it to come to a screeching halt. He's bending over to pick up these papers here that say "Interest Rates." And he's saying, "Let's see, we'll just pick these up."
Now --

MR. GREENSPAN: You know, senator, I pulled a muscle in my back and I now just realize how I did it. (Laughter.)

SEN. SARBANES: Well, I'm glad we found the explanation for it, Mr. Chairman. SEN.

KERRY: You know, Mr. Chairman, if you say something really interesting now about interest rates you could functionally terminate this hearing and relieve us all. (Laughter.)

SEN. SARBANES: Mr. Chairman, I know that's not the focus of today's hearings, but I think this matter is of such importance. The Fed, of course, is urging the Congress to stay the course on fiscal policy. I happen to agree with that. I think we ought to stay within the constraints of the agreement that was reached last year, and I expect that we will. But by the same token, it's my own view that the Fed should have stayed the course on monetary policy, certainly until we had greater assurances that real growth was taking place in some lasting and permanent way and some evidence that one can look to that indicates that we're beginning to get some kind of inflationary problem. Now, Mr. Altman, I just want to put a couple of questions to you. Earlier you were questioned by one of my colleagues on the other side who went through a list of -- (laughs) -- sort of "Have you stopped beating your wife" type questions, I thought. And so let me try to turn it around and get -- I want to be sure.

X000830

Do I understand that the cases to which they're making such reference were handled in the same way that all other cases were handled -- in other words, according to regular procedures?

MR. ALTMAN: Senator, the instructions that I gave were that all procedures, normal procedures should be followed in this matter without any deviation. SEN. SARBANES: And to your knowledge, that's -- I mean, to the best of your knowledge that's the case. Is that correct?

MR. ALTMAN: Yes.

SEN. SARBANES: Mr. --

MR. ALTMAN: Of course, I'm commenting as to the handling of the case under my responsibility. I'm not making a comment about matters that I have no knowledge of of three or four years ago.

SEN. SARBANES: Oh, I understand that, but as I understood the questions that were put to you, it was with respect to your own responsibilities. I don't how you could be expected to assume the responsibilities of others, so to speak. Mr. Chairman, I just have one comment about the constant reference here to Madison and Whitewater and so forth. And that is that, you know, an independent counsel has now been selected. I read the transcript of his press conference with the Attorney General when it was announced. Actually, as I understand it, or as he said, he defined the scope of the investigation. In fact, he says, "I'm totally satisfied that I will have the independence and complete authority to do this job right." And then the resolution by which his jurisdiction is defined, this is Robert Fiske now I'm talking about; "This resolution has been deliberately drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today." And he then goes on to specify that.

Now, of course, I think Fiske is regarded highly. In fact, Senator D'Amato called him "a man of unflinching and uncompromising integrity. He's the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation." I don't differ with that evaluation, I say to my distinguished colleague from New York, from what I know about Mr. Fiske and what's been told to me about him. So I think that's an accurate evaluation of him. Now, the other point I want to address is, he was asked in that conference, "Do you think that a congressional hearing of any kind at this point might hamper your investigation?" This was a question put to Fiske by a -- at that press conference when he assumed his responsibilities. And this was his response, and I quote him -- this is now Robert Fiske I'm quoting, the independent counsel: "I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past, we can all see that that is not an easy relationship." End of quote.

And I just wanted to put that on the record, because I think it's very important to understand

X000831

that, you know, an independent counsel now has been selected. The independent counsel has been given a grant of authority -- actually, according to his own testimony, he defined, in effect, the grant of authority. I haven't quoted it, but the attorney general is very clear here in her statements that he has a full scope to proceed as he deems necessary and to call upon any resources that he thinks are advisable. And it seems to me that, you know, we've put the matter where it ought to be put.

Now, there was some delay in getting to that point. I understand that. But that's the point we are at now, and it seems to me that that is -- ought to be reassuring to the American people that this matter will be looked into thoroughly and comprehensively and that Mr. Fiske and his associates -- and he's now in the process of putting together, I understand, a rather large and first-rate staff -- will get to the bottom of this matter. And I think it's very important that that be put on the record.

I thank the chairman.

SEN. RIEGLE: Thank you, Senator Sarbanes.

I made reference earlier -- I'd just take one moment before calling on Senator Faircloth. I made reference earlier to the actual legal charter of independent Special Counsel Fiske which is published in the Federal Register on Friday, February 4th, and I've read it. And it's really quite a -- I just hold it up here, and we'll put it in the record so that it's there in the context of this discussion. But this is about as broad and as firm a legal mandate as anyone could have. And I notice here that under the Department of Justice the action to accord him that kind of operating latitude was in the form of a final rule. So this locks it in. I mean, this independent counsel, I think highly regarded across this board -- from Senator D'Amato's comments to others that have been made by other people who know him well -- has the authority to go anywhere he thinks it necessary to go. And I again make reference to that article today in The Washington Post, because he's obviously setting up subsidiary investigative efforts, where he's putting together teams to go down each and every issue so that there are no questions left at the end of his work. In any event, I urge my colleagues to take a look at this, because I think it is instructive. Senator Faircloth.

SEN. LAUCH FAIRCLOTH (R-NC): Thank you, Mr. Chairman. And I want to thank you for the manner in which you've conducted the hearing. It hasn't been easy. I had one or two quick one-liners, and then I had some questions. (Laughter.) One of them is in sympathy with Mr. Altman. I bought and sold many a piece of land in my life. I never bought one that somebody didn't tell me I paid way too much for it, and I've never sold one that somebody didn't come immediately and tell me I should have gotten a lot more. But I survived. MR.

ALTMAN: You probably did very well.

SEN. FAIRCLOTH: Chairman Greenspan, I think -- two things. If we get nothing else out of all of this conversation, I believe it will demonstrate to the American people, and maybe to the Congress as a whole, that we need to keep the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision and the FDIC as separate entities, and it's well spent money to have them separate by the taxpayers' money to keep it as it is and not be consolidating it into a political position. I hope that's it. As Senator Sarbanes mentioned on

X000932

your increase in interest rates and inflation, I have observed over the years that inflation is somewhat like Alzheimer's disease; you've had it three or four years before you find out you really have it. And inflation moves before we -- it goes underground a long time. So I think you're absolutely right in increasing rates in anticipation of what might happen. I have found that inflation -- a recession will scare you -- in business, a recession will scare you to death, but inflation will kill you. And I have a question for Mr. Hove.

Mr. Hove, it's my understanding that Webster Hubbell, in his current position as associate attorney general, and in his words, "chief operating officer" at the Justice Department, has formally recused himself from matters regarding Madison Guaranty. Would you agree with me that it would be improper for Mr. Hubbell to seek to involve himself in the FDIC investigation beyond what he was asked by the Legal Division? And if you will -- since that light is looking at me -- I'd like yes or no answers, if you would.

MR. HOVE: I think the issue of Mr. Hubbell recusing himself is an issue that Mr. Hubbell has to deal with.

SEN. FAIRCLOTH: Fine. Have you had any communication with Webster Hubbell concerning the Legal Division's report?

MR. HOVE: I have not.

SEN. FAIRCLOTH: Are you aware of any communication between Webster Hubbell and an FDIC official in the general counsel's office regarding Mr. Hubbell's role in the Legal Division's then-pending investigation and report? MR. HOVE: Yes, sir. Legal Division has had conversations with Mr. Hubbell. SEN. FAIRCLOTH: Are you aware of any communication between an official in the general counsel's office in Washington and the FDIC official in the Kansas City, Missouri field office regarding Webster Hubbell's role in the then-pending investigation and report?

MR. HOVE: No, I'm not aware of that.

SEN. FAIRCLOTH: Would you be willing to let the general counsel's office release their telephone records for the week of January the 24th through January the 31st?

MR. HOVE: Senator, we're willing to release any non-confidential information that would be generally available to the public. As you might know, many of these things would be privacy concerns and we would be concerned about releasing those without redacting some.

SEN. FAIRCLOTH: So you would not release them?

MR. HOVE: No, sir, we will release them, we will release any non-confidential --

SEN. FAIRCLOTH: All right, that's -- who decides whether it's confidential or not?

MR. HOVE: Well, does it include -- does it deal with privacy of the individual. SEN.

X000833

FAIRCLOTH: Well yes it does, but we need -- yeah, sure it does. That's what we want them for. (Laughter.) Will you?

MR. HOVE: We'll release anything that is publicly available, yes, sir. SEN. FAIRCLOTH: Well, it's not publicly available or we wouldn't be asking for it to be released. If it were in the want ad section, I'd have gone there to get it.

MR. HOVE: Yeah, we have log of everyone that we've contacted, everyone we've talked to on the phone, and we'll release that.

SEN. FAIRCLOTH: All right. Okay, that's what we need.

I see in the Wall Street Journal and the Chicago Tribune, and it's generally out, that you found no conflict of interest between Ms. Clinton and her work in the Dan Lassiter (sp) and First American Savings and Loan, that you find her completely innocent.

MR. HOVE: Senator, let me talk about that issue because that was not an FDIC issue, and that was not an investigation or a review that the FDIC has done. That was an issue that happened before FDIC ever became involved. That was an issue between the old FSLIC -- the old Federal Savings and Loan Insurance Corporation and the failed savings and loan, First American in Illinois. They had filed the suit against Lassiter (sp). They had settled that suit before FDIC ever became involved in that. It was an issue that had happened way before FDIC ever became involved in it.

We have not reviewed that. We have looked at --

SEN. FAIRCLOTH: May I ask one quick question?

MR. HOVE: Yes.

SEN. FAIRCLOTH: Who settled it? Ms. Clinton and Foster? Is that -- it was settled -- you say it was settled. It was settled by Ms. Clinton and Foster. MR. HOVE: I'm not sure that it was settled by Mrs. Clinton. Mrs. Clinton's involvement was to sign an amended complaint for Mr. Foster that amended the complaint from the savings and loan against Lassiter (sp). That was her only involvement in that case.

SEN. FAIRCLOTH: All right, go ahead. I'm sorry, I interrupted you. MR. HOVE: That case was settled over six years ago by the conservator. The conservator for that savings and loan had hired a law firm in Chicago. The law firm in Chicago subcontracted the Rose law firm to work on this case for them as the conservator. The lawsuit was settled before we ever got it, and normally these facts would not trigger an investigation for us, but because of the increasing public interest -- and if you choose, we will conduct an IG investigation to determine that -- but again, the records are scattered all over because it's the old FSLIC records and they were not compiled in any one location. So it's a very difficult issue. It -- there's no single repository of these records. And we'd be willing to assist your staff in locating any of these records that may be available and to make some determination as to what the involvement was.

X000834

SEN. FAIRCLOTH: So this clearing of Ms. Clinton in any involvement with the American Savings and Loan and Dan Lassiter (sp) was done by the FDIC, it was done by the --

MR. HOVE: We have not cleared it. The only contact we've had on the First American Savings and Loan and the Lassiter (sp) case was a press contact that came as a result of an article that appeared first in the Chicago Tribune, and we responded to that saying exactly what I've told you, that this was not an FDIC issue, that it was in fact a FSLIC issue that occurred before FDIC ever became involved in any FSLIC issue. The issue was settled, the settlement was made before FDIC ever became involved in this issue.

SEN. FAIRCLOTH: All right, so -- but the -- would the statute run on it, could it be opened by the special counsel?

MR. : I haven't any idea. That's a question I guess I'd have to ask my attorney.

SEN. FAIRCLOTH: Ask him.

MR. : (Confers.) I don't know.

MR. : I have no idea either.

MR. : We don't have enough records at this stage to know -- SEN. FAIRCLOTH: Thank you.

SEN. RIEGLE: Although I'll repeat again, and you'll read it from this Federal Registry (sic): "The independent special counsel has two authorities. One authority is for criminal prosecutions. The other authority is to proceed with civil actions." Now, the civil authority doesn't relieve any other regulatory body of whatever civil action they might appropriately take. But the point is, the special counsel has the specific grant of authority to proceed down both tracks. And it's laid out four different times in this charter of responsibility, and it's a very important point.

SEN. D'AMATO: Will the chairman yield? Just on that point, because to be quite candid with you, until the chairman read the grant of authority, I was given to believe that the special counsel would confine himself to the criminal side. I'm not suggesting to you that the grant may not give him broader powers. I would think it would behoove us, and I'm not attempting to get the exact language determined now, but if we could not, send a letter from this committee and ascertain, indeed, will he undertake the review of various civil matters, such as the one brought up as it relates to this last matter that Senator Faircloth brought up, and there are some others. I think that would at least set the record straight and we might want to put that to him and, again, have our counsel work together to put forth the appropriate question. But I think we should determine, indeed, is that the case.

Secondly, I make a quick point, and I beg the indulgence of my colleagues, by stating, I think that if you notice, at least where I have been attempting to take this, and I think some of my

X000835

colleagues, we're attempting to ascertain what if anything did the RTC, did the FDIC, do in connection with these matters. That is not at variance with the charge of the special counsel. We are not, in attempting to find out what was done and what wasn't done, in any way disturbing his investigation. I think we have an absolute right to know what was done. We have an absolute right to know the appropriateness of the action, so --

SEN. BOXER: Can I have a point of procedure? Whose time are we on? I just was -- I've lost track.

SEN. D'AMATO: Well, I'm going to do it one way or the other.

SEN. BOXER: Well, I don't have any objection to your doing it. I'm just confused. Is this Mr. Faircloth's time that you're on? Or is this added time, so we can all get added time?

SEN. D'AMATO: I asked the chairman if he would indulge me so I could --

SEN. RIEGLE: He asked the indulgence of the chair and I'm going to let him finish his point.

SEN. BOXER: Okay, fine.

SEN. RIEGLE: And then we'll move to the next person here.

SEN. BOXER: I was just checking.

SEN. D'AMATO: So, again, this is not an attempt to do anything other than to see what has been done to date by those various agencies that have the collective and the individual responsibility to deal with these matters. That's one. And secondly, it would seem to me that it might clarify the issue -- certainly I was led to believe, and maybe incorrectly so, that the special counsel was not going to look into civil matters. I think it's important for us to ascertain that.

And so I put that to the chairman that possibly we review that matter. I'm not looking for an answer at this time --

SEN. RIEGLE: Well, I'm going to just -- I'm going to take a minute and just read it into the record because I don't want it to be --

SEN. D'AMATO: No --

SEN. RIEGLE: I know, but it's important, and the words are on paper, and this is the official charter. And I'm going to read from page 5221 of the Federal Registry of February the 4th of this year, and I'm going to just read three or four different lines here that appear in different places, and here's the first one: "The attorney general has appointed this independent counsel to investigate whether any individuals or entities have committed a violation of any federal law or civil law." And then it goes on in that vein. And then over on the next page it says again "... have committed a violation of any federal criminal or civil law relating to ..." And

X000836

then again it says "... any violation of any federal law or civil law." And it says it one more time further on down the line here.

So it's clear -- my interpretation of this is that this does not relieve any regulatory body of any proper actionable efforts that it should properly undertake and determine to undertake, but it says that the special counsel clearly has the authority to move down both tracks if in his judgment he should find that that is warranted. And it's a very important fact.

SEN. DOMENICI: Mr. Chairman --

SEN. RIEGLE: Senator Domenici, let me just say the time -- we're at the point now where either you or Senator Gramm will get to ask questions, and you -- you're both here, and I don't know if either of you have a -- one will follow the other, but will either of you have a time problem as to who goes first?

SEN. DOMENICI: Well, I just wanted to ask you with -- on that question on your charter interpretation there, or reading --

SEN. RIEGLE: It's not an interpretation, it's what -- it's the final rule that was laid down on the --

SEN. DOMENICI: Well, what is -- what is the special prosecutor supposed to do if he finds civil law violations?

SEN. RIEGLE: He has the full legal empowerment to take whatever actions he deems necessary -- and all the investigative and prosecutorial authority to do so. I mean, this is an absolute charter.

SEN. DOMENICI: We'll -- we'll -- thank you very much for that.

SEN. RIEGLE: You can take a look at it.

SEN. DOMENICI: Senator Gramm, I have a little bit of time, although I'm late for some events. But if you want to go, I'll let you go and I'll follow. It -- Will there be another one from the other side that has not inquired yet?

SEN. RIEGLE: No. You are the last two that have a chance to question, so --

SEN. DOMENICI: Well, go ahead. Could you keep it brief, senator? Short?

SEN. RIEGLE: -- and then we'll go back and forth, senator. SEN. : No.

SEN. DOMENICI: No? (Laughter.)

SEN. RIEGLE: Senator Gramm.

X000837

SEN. PHIL GRAMM (R-TX): You want to go ahead?

SEN. DOMENICI: No, you go. You got the time clock right there.

SEN. GRAMM: Let me begin. I've just got a simple question that I want to ask of most of the members of the panel, and let me just read it. Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the president, the first lady, or any of their representatives, including their legal counsel or any member of their White House staff, concerning Whitewater or the Madison Savings and Loan?

MR. ALTMAN: I've had one substantive contact with White House staff, and I want to tell you about it.

SEN. GRAMM: Okay, let me, if I may, just -- given that "yes" I'd like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

MR. ALTMAN: Right. First of all, I initiated it. About three weeks ago, Jean Hanson, who is Treasury's general counsel, and I requested a meeting with Mr. Nussbaum -- he's the White House counsel.

The purpose of that meeting was to describe the procedural reasons for the then impending February 28th deadline as far as the then statute of limitations was concerned. I'm sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims. And we explained the process which the RTC would follow in reaching a decision before that February 8th deadline, that it would be exactly identical to procedures used in any other cases, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim or whether there didn't. And in the event that the basis for a claim existed, then it would pursue either a tolling agreement, which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest, or it would file that claim in court. That was the whole conversation. I was asked one question. That was question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said I assumed so, went back -- (inaudible) -- and checked with the RTC general counsel. The answer was in due course. I said fine. That was it. I have not had any contact with the president of the United States or the first lady on any matter like this.

SEN. GRAMM: If I may, let me pose the same question to Mr. Hove. Have you or any member of your staff had any communication --

SEN. RIEGLE: Mr. Hove, let me just -- I don't know if you know. This question's being addressed to you.

SEN. GRAMM: Have you or any member of your staff had any communication with the president, with the first lady, with their representatives, including legal counsel, with members of their White House staff concerning Whitewater or Madison Savings and Loan?

X000838

MR. HOVE: Our director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared The Chicago Tribune regarding the First American issue. They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement.

SEN. GRAMM: So they were asking you to respond to the press statement? MR. HOVE: It was Mrs. Clinton's attorney.

SEN. GRAMM: Mrs. Clinton's attorney --

MR. HOVE: I'm sorry. It was Mrs. Clinton's attorney --

SEN. GRAMM: -- called you?

MR. HOVE: It was Mrs. Clinton's attorney that called the FDIC Office of Communication.

SEN. GRAMM: So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press --

MR. HOVE: No, no, that's not what he said.

SEN. GRAMM: Well, I'm asking the question.

MR. HOVE: Yeah. No, but that -- but --

SEN. GRAMM: I'm not trying to speak for you.
What did Mrs. Clinton's attorney ask you to do?

MR. HOVE: They asked did we have any statement, and we responded, no, we did not have a statement.

SEN. GRAMM: Would it be normal that someone's -- did this attorney work for the federal government?

MR. HOVE: No. This was Mrs. Clinton's attorney.

SEN. GRAMM: When did this call occur; do you know?

MR. HOVE: After the second article appeared in the Chicago Tribune, and I can't tell you the date of that. It's been in the last, what, two weeks or so? I don't know.

SEN. GRAMM: And you were asked if you had a response that you were going to put out on it; you said no.

MR. HOVE: That's correct. We responded to the first statement, the first article that appeared in the Chicago Tribune, pointed out the errors of that article, that it was not an FDIC matter,

X000839

exactly the same thing that I responded to Senator Faircloth.

SEN. GRAMM: And to the best of your knowledge, you've had no other communication, you and your staff have had no other communication with all the people that --

MR. HOVE: That's correct.

SEN. GRAMM: Let me pose the same question to Mr. Fiechter and to Ms. Ford.

MR. FIECHTER: To the best of my knowledge, I know I have and OTS staff has had no communication whatsoever with anyone from the White House about this or that list that you included in your question.

MS. FORD: No, the Oversight Board nor I have had any involvement in this matter.

SEN. GRAMM: Let me raise a second question, and it's a thing that I've tried to understand in looking at where we are and what we need to do to get on with finishing this matter. Part of the problem that we have had in the past with regard to congressional hearings and congressional involvement really has involved two things. One has been the granting of immunity by congressional panels for people who would testify. The other is that under the Constitution, the testimony of a member of Congress is a privileged matter that is given special treatment. In this case I'm not aware that anyone in holding a congressional hearing or looking into this matter would be talking about -- I don't know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress. We're not talking about a member of Congress, where there's special constitutional provisions. I'd like to just pose the question: What would be wrong with letting members of this committee that have oversight responsibility look at the records in this case or any other case where we have oversight responsibilities? Mr. Hove, let me pose that to you and Mr. Altman, and then I see my time is up and I'll stop.

MR. HOVE: Our position is that we will make access available, and we have, to Congressman Leach, to all information that is, again, non-confidential documents.

SEN. GRAMM: How would you define what is confidential?

MR. HOVE: Again, those that would -- (pause) -- those that would involve privacy information that would be non-germane to this issue.

SEN. GRAMM: And you would make that judgment?

MR. HOVE: Yes.

SEN. GRAMM: Mr. Altman?

MR. ALTMAN: First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred at the very beginning to documents he received last

X000840

evening, and I would have liked him to receive them earlier, but we only got the request last Friday.

But in terms of Congressman Leach, who has also received those documents, he has had them for some time -- if my memory serves, 6,500 pages -- the RTC has been asked not to make information about criminal referrals in the Madison matter public, and it's standard practice not to release information of that kind or any other which might compromise a criminal investigation. And of course, we're cooperating with the independent counsel to try to assure that we don't release any information which would jeopardize his investigation. And as I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should.

SEN. GRAMM: Mr. Chairman, if I could have your indulgence, I've got here a text of a newspaper article in Phoenix that contradicts something that Mr. Hove said, and I'm sure he doesn't want to let it stand. I've got a response, apparently after the second article, where the agency -- the FDIC did in fact make a statement. It says the agency said Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing federal regulation of savings and loans. I've got this if you would like to see it.

MR. HOVE: Was that after the second -- we made a comment -- we made a public comment after the first article appeared --

SEN. GRAMM: This is 2/16/94.

MR. HOVE: Okay, and I don't know when those articles appeared. SEN. RIEGLE: Why don't you take a look at it, and let's go to Senator Domenici and then --

SEN. GRAMM: (Aside) -- When did the other one occur, what's the date on the other one?

MR. HOVE: Senator, we commented after the first article appeared to correct any inaccuracies that was in the report. The involvement that Mrs. Clinton had in that case was, again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case. That involved two hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint. As far as we can determine from the records we have, that was the involvement that she had had, and that's what we released at the time.

SEN. GRAMM: Well, if you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, why they made it, it'd be fine. Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Domenici.

SEN. PETE V. DOMENICI (R-NM): Mr. Altman, Stanley Tate (sp) was nominated by President Clinton to head the RTC, and while preparing for that confirmation he was at the

X000841

RTC in a consulting capacity. That's all true, isn't it?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: When he withdrew his nomination, he attempted to release to the public materials he had prepared containing the RTC operations. Are you and the board familiar with the document that I refer to?

MR. ALTMAN: Generally, sir, yes.

SEN. DOMENICI: Why did the oversight board prevent Mr. Tate (sp) from releasing that document?

MR. ALTMAN: Well, first of all, it was released.

SEN. DOMENICI: Well, you released it -- when he left it was not released and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or my office, but that was December 23rd, 1993. Why was it not released when he wanted to release it?

MR. ALTMAN: Well, senator, my recollection is that it was released rather promptly. Maybe not the day after he submitted it, but as a federal employee -- consultant, the materials properly would be -- were reviewed by his superiors before being released. But I think the point is they were released in short order.

SEN. DOMENICI: Well, did the RTC or the oversight board alter, edit, or sanitize this document before releasing it? And let me say if not, why did Dietra Ford, oversight board executive director, send a memo -- and I have that -- dated November 30th to you about these materials which included the following sentence: "I'm forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided." Those last -- that last sentence is a quote. What was the disaster that Mrs. Ford was referring to? Was this a reference to Madison? If it wasn't, fine. If it was, I think maybe we ought to know about it.

MR. ALTMAN: Senator, you should ask Mrs. Ford that question.

SEN. KERRY (?): You may not like the answer, but --

SEN. DOMENICI: Well, I just got this letter, and it deserves an answer. If it's not what I want, that's fine. That's what we're here for.

MS. FORD: We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board. The deputy general counsel of the Oversight Board and I advised --

SEN. : Pull the microphone up.

X000842

MS. FORD: We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO, Mr. Altman, before they are released to the public and that he was a federal -- special federal government employment and, therefore, he was subject to the rules that apply in terms of ethics, the Office of Government Ethics, that applied to the release of documents which he obtained during his tenure as a federal government employee.

SEN. DOMENICI: Well, what's what your letter says.

MS. FORD: That's right.

SEN. DOMENICI: But what was the "disaster that we narrowly avoided"?

MS. FORD: It was my interpretation that, to release those documents before anyone in the Oversight Board staff, the attorneys involved, or -- who advise us, have a chance to look at them, was inappropriate. And that's my choice of words -- "disaster." I think it's inappropriate to release documents before we know what they contain.

SEN. DOMENICI: I thank you.

Let me quickly move to a couple of other ones if I might. Mr. Altman, I think you told Senator Bond that you would not make available any documents that, quote, "would have a negative impact on the legislation," closed quote.

MR. ALTMAN: No, I don't think so.

SEN. DOMENICI: No?

MR. ALTMAN: I said -- I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation.

SEN. DOMENICI: Well, this committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clarke. This committee explored in detail transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here. Why can't you release all of these documents for this kind of hearing?

MR. ALTMAN: Senator, we have had -- or I am advised we have had a couple of conversations with Mr. Fiske, the independent counsel. He has asked us not to release any documents that could jeopardize his investigation. I don't know why you would want us to do that, to jeopardize his investigation. We certainly don't want to.

SEN. DOMENICI: I don't want you to.

MR. ALTMAN: And we're respecting his request.

X000843

SEN. DOMENICI: But if the special prosecutor has no objection to the committee being provided copies of documents, can the committee then count on the RTC's full cooperation in providing them.

MR. ALTMAN: You should direct that question to Mr. Fiske.

SEN. DOMENICI: No? If he has no objection, then can we count on you to release them?

MR. ALTMAN: I think the answer is yes.

SEN. DOMENICI: Does the RTC have an inspector general?

MR. ALTMAN: Yes, sir.

SEN. DOMENICI: Has the inspector general investigated the conflict-of-interest allegations regarding the Rose firm?

MR. ALTMAN: I don't know the answer to that.

I'm nearly certain it's no because, as you know, it wasn't the RTC that ever had any retainer relationship or other relationship with the Rose firm.

SEN. DOMENICI: But you're kind of the natural successor to what went on there, and I believe -- I think when you took over you began some investigation of that. We'll show you that in a minute. But my question is, if the FDIC agreed to have its IG look into Madison, would there be any reason why you wouldn't?

MR. ALTMAN: I have no objection to the IG's looking into any matter that he sees fit to look into or that he's requested on an official basis to look into. That's what he's there for.

SEN. RIEGLE: Senator Domenici, I don't want to be arbitrary, but I do want to try to stay on the time clock if I can as we go back and forth, and we'll continue until everybody's had a chance to cover everything they want to cover today.

SEN. DOMENICI: Thank you very much, Mr. Chairman.

SEN. RIEGLE: Chairman Greenspan, I want to come back to the interest rate situation because we had an opportunity to talk the day that the Fed took its first step, after that was taken, and I'm concerned about the question of what has happened since and just your own expectations of what might happen, what has happened. You've made further public comments in a hearing recently. I'm just wondering, as you watch market reactions to the tightening move that the Fed made, are you seeing essentially what you expected or have you seen something that -- particularly in terms of the uptick on the long rates -- something that maybe you would not have expected? In other words, where are we now, and how do you read what seems to be taking place as a reaction to the Fed's policy adjustment?

MR. GREENSPAN: Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the

X000844

basis of what has historically tended to be the case, that the type of increase that we've had would initially lead to some small increase in long-term rates followed by some edging off. That's basically been the history, other things equal, and that's essentially what one endeavors to use so far as a forecast is concerned.

What occurred in the interim was, as I indicated to the subcommittee of the House the other day, is that there was a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising, and the first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey, which showed a significant increase in prices paid by manufacturers for the month -- I suspect it's early February. The point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4th move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated.

And to repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change. As I said then, my impression of how one should interpret that Philadelphia report is more an indication of a pick-up in economic activity because commodity prices tend to be reasonably good proxies for new orders and indeed I think that's what essentially that particular report was showing. It is not a particularly good forecaster of inflation. And as I said at the House committee, we seem to be lacking the financial tinder that usually is associated with inflation accelerating when you get a significant pick-up in economic activity.

I'm agnostic at this stage. I think it's too soon to make a judgment, but we will learn a good deal more as the data begin to come forward.

SEN. RIEGLE: Well, but as I listened carefully to what you were saying, it seems to me when you say you don't see the inflationary tinder and that you're sort of an agnostic, I mean, I gather you're saying you don't see, yet, a broad evidence of a build-up of inflationary pressure that really worries you. I mean, I -- or is that not a -- I mean, put it in your words, but I'm just --

MR. GREENSPAN: No, that is substantially correct. Look, the reason that we moved on February the 4th, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside. And when it became apparent that the adjustments that we thought would occur and in fact have been occurring in the balance sheets got to a point where the economy could start to regain its momentum and gain a degree of expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists. The issue is not, do we see inflationary pressures emerging, BUT what is the reason

X000845

why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures. So, it's the issue -- I would reverse the question, not do we see inflationary pressures, but what reason would we have, once the recovery seems well entrenched, as indeed I believe it is, would we wish to keep an excessively accommodative stance? That is not a statement which says we are setting inflationary pressures emerging; indeed, as I said in my prepared remarks to the House committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing we're sure at that point is we are very far advanced in the process, and history tells us that that type of policy which we engaged in much too often, is wholly inappropriate to maintaining long-term economic stability.

SEN. RIEGLE: Well, let me just say to you I find that a very important clarification and point that you've just made. And I think it puts this in a somewhat different light than some of the commentary, I think, has given to it because what I hear you saying is is that you've -- you've had a monetary policy that has been overly accommodative in order to try to get sort of the engine going again and that you overcorrected in a sense --

MR. GREENSPAN: Deliberately.

SEN. RIEGLE: -- deliberately. And now that it has gotten the traction that it needs to have, as far as you can tell, you're taking back some of that overcorrection but not for reasons of the fact that you see this inflationary tinder building up here.

MR. GREENSPAN: Precisely. And, in fact, I've tried to make that point every time I've stated this, and I somehow don't seem to get it across as well as I think I would like to.

SEN. RIEGLE: Well, I think you got it across pretty well right now, and we've got a pretty good sized press table that I hope will have gotten it down even though it's 20 to two, which is sort of a late hour for us to all be meeting here -- (laughter). But I thank you for that. I think that's a very important distinction, and I think it's important for the economic system and the markets to understand what you've just said.
Senator D'Amato.

SEN. D'AMATO: Thank you, Mr. Chairman. Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up and -- as it relates to any meetings with White House staff or counsel. Mr. Altman, I think you said that you and a -- an official from Treasury sought out Mr. Nussbaum. Is that -- is that correct?

MR. ALTMAN: Yes, I did.

SEN. D'AMATO: Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel.

MR. ALTMAN: Solely to ensure --

SEN. D'AMATO: Solely to -- ?

X000846

MR. ALTMAN: Solely to be sure that he understood the legal and procedural framework within which the RTC was working. And if you recall, as I said at that time, it was a February 28th date which was the subject of major attention in the Congress and in the press. It's not uncommon of meetings of that type to take place. And I'd describe it as a "heads up" and a very stiff conversation.

SEN. D'AMATO: A "heads up". In what connection would that heads up be? You mean that the statute of limitations was running?

MR. ALTMAN: No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28th.

SEN. D'AMATO: Was any representatives of the president or Mrs. Clinton or any legal counsel -- which I think would be appropriate -- speaking to the counsel for the RTC, or people handling this particular -- this particular matter? I mean, was there any legal representation going on? Was this -- you just called them? Did they have any representatives, any counsel who may have been meeting with staff people or talking to staff people?

MR. ALTMAN: I was accompanied by our general counsel, Treasury general counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the -- there at the time.

SEN. D'AMATO: Oh, Ickes is in it, huh?

Let me ask you this: Prior to this meeting, was there any representation -- was there any counsel that was being given representing the president's interest or Mrs. Clinton's interest or anyone else that you're aware of as it relates to the matter that you went to brief them on?

MR. ALTMAN: No, not to my knowledge. Nor were there any substantive conversations -- subsequent conversations.

SEN. D'AMATO: Did anyone request this meeting?

MR. ALTMAN: I requested the meeting.

SEN. D'AMATO: Was there any other meeting that may have been requested?

MR. ALTMAN: No.

SEN. D'AMATO: There was no other meeting that you are aware of that the White House counsel requested?

MR. ALTMAN: No.

SEN. D'AMATO: Or anyone else from the White House?

X000847

MR. ALTMAN: No.

SEN. D'AMATO: Mr. Ickes?

MR. ALTMAN: I had no subsequent -- I received no subsequent requests for meetings.

SEN. D'AMATO: Well, what about private counsel? Did private counsel -- I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel that was meeting with staff lawyers at some level?

MR. ALTMAN: Not to my knowledge, Senator.

SEN. D'AMATO: Ms. Ford, do you know of any?

MS. FORD: No, I've had no involvement.

SEN. D'AMATO: Let me turn to the RTC report which was dated February 8th, which we received last evening about 9:00 -- Resolution Trust Corporation -- and say to you that, in reviewing this document, I think it goes a little further -- does a little better job than the one that came out of FDIC. I found it interesting that in its conclusion on page five and six, in its summary before it reaches its disposition, it says, A, Rose represented Madison prior to its failure; B -- and I am not reading the whole sentence -- Rose represented the FDIC/RTC subsequent to the failure of Madison; C, Rose did not disclose its representation of Madison before the Arkansas Securities Department to the FDIC or the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell. And, by the way, I'm going to, Mr. Hove, read something to you that's quite illuminating. You better have your lawyers take a look at this. And when it gets all done doing that, it says, based on the factual conclusions in the RTC conflicts report -- it says we send it to counsel.

Now, I have to tell you that I am going to ask -- because you have no conclusion. It just says, "These are the facts; these are the facts, fellows. Now, you do with it what you want" and sends it to counsel -- general counsel. I'm going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the inspector general. And as you've indicated before, you certainly wouldn't say, "I don't see any -- how that would impede anybody or anything." But I certainly would feel more comfortable that it goes to the inspector general as opposed to the general counsel. And I think it would guarantee the integrity of the review, certainly in this senator's mind and I think in others.

MR. ALTMAN: Fine.

SEN. D'AMATO: I thank you very much. I see that my time has expired. I have another observation to make, and I'll do that after -- at the appropriate time.

SEN. RIEGLE: Senator Kerry?

X000848

SEN. KERRY: Well, let me ask my colleague, is that going to be the last -- I mean, or is there intention of colleagues to go a whole other round?

SEN. D'AMATO: I think some colleagues have some other questions, and they'll raise them whenever --

SEN. RIEGLE: I think maybe we're going to have one more go- around here with those that are left who want to do so. And then I think we're probably done here.

SEN. KERRY: It was my understanding that we were going to have another hearing here in 10 minutes, which I'm also supposed to participate in. I'm just curious what the plans of the chairman are. If my time could not -- I'm just --

SEN. RIEGLE: They have a different room that they're meeting in --

SEN. KERRY: All right. So that's --

SEN. RIEGLE: -- so that we won't run into a room conflict. But we are late in the day, and the witnesses have been here a long time. So my intention would be to finish up a round here where everybody gets another turn at bat.

SEN. KERRY: Well, maybe I could ask another -- just procedurally. I don't want to really use my time at this point. But it seems to me that maybe we could ask if anybody has any more questions to ask of the chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we're going to do is talk about another subject.

SEN. DOMENICI: I -- is my turn imminent here? Or do I have a long wait?

SEN. RIEGLE: Let me get my batting order here.

SEN. DOMENICI: Because I don't want to keep him a long time, but I wanted to --

SEN. RIEGLE: Actually, you follow Senator Bond, who will come after Senator Kerry. Then we'll come back to Senator Boxer. So actually there are --

SEN. : How long is your question? Maybe they would let you get that --

SEN. DOMENICI: I don't want -- I don't have a question of Mr. Greenspan. I just want to state for the record that, frankly, I believe the actions you took over the last three or four years have a great deal to do with the status of the American economy. I frankly believe you were subject to some undue criticism, but if we have a solid recovery, I think it's very significantly related to the conduct of the Federal Reserve over the last 3-1/2, four years.

Maybe President Bush would have liked it differently, maybe Dick Darman would have, maybe it all could have happened earlier, but nonetheless, I think you're somewhat responsible, so I trust you at least on what you're doing now.

X000849

SEN. RIEGLE: That reminds me a little bit of watching some of that Olympic skating competition last night when they throw the bouquets out on the ice. You just threw a nice one to the chairman. Senator Kerry?

SEN. : You were critical of him. You wanted to loosen up even more.

SEN. RIEGLE: Well, the other day I think my comments were comments that reflected some understanding as to what the chairman's trying to do, and I think he's put additional light on that today. I don't think this chairman wants to strangle the economy. I'm speaking of Chairman Greenspan, and, you know, sometimes you can do that and not intend to. But I think he's trying to be as prudent as he can be. Senator Kerry?

MR. GREENSPAN: Excuse me. Mr. Chairman, is that -- (inaudible)?

SEN. RIEGLE: Are you excused? Can you take your bouquet and go? (Laughter.) Yes, you can. Senator Kerry?

SEN. BOXER: You get a 5.9 from me.

SEN. RIEGLE: Senator Boxer gave you a 5.9. (Laughter.)

SEN. BOXER: You skate so well (on the ice ?).

SEN. RIEGLE: Especially on the technical portion of the -- (laughter) -- of the program.

X000850

SENATE BANKING/FDIC OVERSIGHT PAGE 89 02/24/94
RESUMPTION OF COVERAGE

x x x program.

SEN. : (Off mike.)

SEN. RIEGLE: Senator Kerry?

SEN. JOHN KERRY (D-MA): Mr. Chairman, I'm not sure I have time to stay through the whole process here, so I may review the bidding here a little bit. But just speaking as a former prosecutor, one of my colleagues over here was sort of questioning the duality. I can tell you, as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, multiple copies of documents moving around. I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly wouldn't be a judgment that I made to make things public in the middle of an investigation because it inevitably taints somebody's something and it creates a very hard process for pursuing a track. What astonishes me here a little bit -- and I want to reiterate it -- I mean, we've got \$150 billion problem here which taxpayers are paying for. They're already angry enough about us wasting their time and duplicitous process. And here we are, frankly, with very important people in front of us having spent a morning not really examining where that \$150 billion went, not talking about it, but dealing instead with politics. And that's what this really comes down to, it's politics. It's totally unnecessary. In the context of the gentlemen who has been made a special prosecutor, a Republican appointed by a Democrat -- and let me just share with colleagues again quickly something about Mr. Fiske. This is an article from the New York Times right after he was appointed: "Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest. The choice is one that you simply can't argue with," said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush and a college classmate of Mr. Fiske's more than 40 years ago. "He's one of those guys who has always conducted himself with integrity." The article goes on to say that: "Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the first family."

Now, if that's not enough, if we don't have the patience to allow him to do his job and sit here and ask relevant questions about \$150 billion, we ought to ask what we're doing. I mean, this is why the taxpayers get so fed up because all we do is dig into politics. And there's a huge distinction between this case and prior cases because we are not looking at a current situation where the president is currently making decisions about current money being spent or current policy. This is something that happened when he was governor -- if whatever happened happened -- and I suggest that this prosecutor has the ability to get at it. If he doesn't, I'll join with Senator D'Amato, I'll be one of the first people -- I think I have a good reputation here on the basis of BCCI and Noriega and other investigative efforts in pursuing things. But I think back to the time that I was trying to do that. I didn't have any help from the other side of the aisle. We did not get subpoena power. We did not have the

X000851

ability to have a full-fledged investigation in this committee on that. And I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a special prosecutor. Most of my colleagues making a lot of noise about this now opposed having a special prosecutor. So I just think fair is fair at some point in this business. We all understand the game and we all understand what happens. But it seems to me that to take a 150 billion dollar fiasco and relegate it to a second tier for this 194 state-run -- who was the primary regulator of this institution originally? MR. : The -- originally it was the Federal Savings and Loan Insurance Corporation, and then later OTS.

SEN. KERRY: So it came to the federal government secondarily. And, I might add, for two years this case was closed. It wasn't until six weeks before the election -- and we ought to ask some questions about this -- that suddenly, when Bill Clinton was the nominee for president of the United States, that there was a criminal referral to the RTC, not until six weeks before the election. For two years while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today. So I'm not saying questions shouldn't be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions because it's a sorry chapter in American politics. But that's going to happen, the 25 FBI agents and depositions and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes, avoiding the real issues that they would like us to dig into. And I don't think much more needs to be said beyond that.

SEN. RIEGLE: Senator Bond?

MR. : Mr. Chairman, may I make a correction?

SEN. RIEGLE: Yes.

SEN. KERRY: I think Senator Kerry asked who was the primary regulator. The primary regulator was the state of Arkansas.

SEN. KERRY: Well, that was what I was getting at. The primary regulator was the state.

MR. : Exactly. And the primary federal regulator was FSLC and OTS.

SEN. KERRY: Correct. So the issue of federal nexus here in terms of decisionmaking is only by transfer, not by original jurisdiction. So what we're doing is secondary to the third tier.

SEN. RIEGLE: Senator Bond?

SEN. BOND: Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer. I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions, which are along the lines that Senator Kerry raised. I also have a series of questions for the FDIC and for the RTC which follow up on these other questions, but in the time remaining I do want to pursue a couple of items. When

X000852

we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were. Now, if the RTC under your direction were requesting records from the first lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the first lady?

MR. ALTMAN: Senator, I don't get involved in any substantive aspects of any PLS case, particularly -- or including documents that they may seek. So they've never brought that to my attention since I've been in this job, and that goes right through today.

SEN. BOND: So you wouldn't expect them to tell you.

MR. ALTMAN: No, I wouldn't.

SEN. BOND: I find that remarkable. In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some members of Congress. Could you furnish to this committee the latest, most up-to-date inventory and provide the hearing -- for the hearing record along with the previous versions? Would you make that available?

MR. ALTMAN: Last evening we supplied the -- 6,500 pages of information to Senator D'Amato's office, as we had some time earlier to Congressman Leach. SEN. BOND: And is that the entire inventory? Are those all the documents? You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at the particular time, a new standard for delivery in package express.

MR. ALTMAN: Well, I have here a list of the documents.

SEN. BOND: Is that the latest version?

MR. ALTMAN: This is just a list of what the documents are. There's 6,500 in total pages. This is a list of the documents we provided.

SEN. BOND: If you could make one available for the record, we would like to have that. I'd appreciate it.

MR. ALTMAN: Be delighted.

SEN. BOND: Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

MR. ALTMAN: Last fall I was advised that the question of a referral to the Justice Department was under consideration at the RTC, and as other members of the RTC staff will attest, I said that normal procedures, with no deviation whatsoever, should be pursued, including chain of command procedures, in terms of reaching that conclusion.

X000853

I might tell you that typically decisions like that are made at the regional office level, and that it was in this case.

SEN. BOND: Were you aware that the regional office had asked the national office to make a determination as to whether the Clintons' name should be in the new expanded referral?

MR. ALTMAN: No.

SEN. BOND: You did not know they were asking for the national office to make a determination on that?

MR. ALTMAN: No. I was simply informed that this issue was on the table, and my reaction was -- I had only one conversation about it -- that normal procedure should be followed. That's the way we're going to handle this thing from beginning to end.

SEN. BOND: How was the White House notified of the referral? Was it from your agency?

MR. ALTMAN: They were not notified by the RTC, to the best of my knowledge.

SEN. BOND: Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major -- this could be a major source of concern?

MR. ALTMAN: Not to my knowledge.

(Confers off mike.)

Ms. Ford, do you know if the White House was notified by the RTC?

MS. FORD: No, we have had no involvement at the Oversight Board whatsoever.

SEN. BOND: When was the firm of Madison & Pillsbury put on retainer by the RTC, do you know? And for how long and what cost?

MR. ALTMAN: I don't know that. I'm aware that that firm has been retained as outside counsel on this matter, but I'm not aware of the date on which it was retained nor the retainer arrangements.

SEN. BOND: Will they review the potential of suing the various law firms who represented Madison or the board of directors?

MR. ALTMAN: I don't know the answer to that question.

SEN. BOND: We'd appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that. And finally, I'm advised that the list you have there is just an inventory of the documents provided to Senator D'Amato; it is not the complete inventory of the documents pertaining to Madison. And if I'm mistaken, in either event, we would appreciate receiving a copy of the inventory of the entire documents.

X000854

MR. ALTMAN: Well, Senator, I'm not sure I fully understand your question. But what we have released amounts to what we've been asked for, less any documents that, in our judgment, could prejudice the investigation. I told you earlier that we'd had a couple of conversations -- I haven't had them; I'm advised there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we're trying to adhere to that.

SEN. BOND: As I understand it, that you have prepared an inventory. I'm not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps members of the House side, or others, with the inventory, not the contents of the documents.

MR. ALTMAN: Any information, I assure you, that we have supplied to Congressman Leach or anyone else -- elsewhere in the Congress, we're delighted to supply to you or anyone else here that would like them.

SEN. BOND: Would that include an inventory, a cataloging, not the contents but a cataloging of the documents in the Madison case?

MR. ALTMAN: We will supply you with any information to that extent that we can which does not get into areas that we think would prejudice the investigation. SEN. BOND: Thank you, Mr. Chairman.

SEN. RIEGLE: Senator Boxer?

SEN. BOXER: Mr. Chairman, I'd like to -- I'm still working.

SEN. RIEGLE: All right. Senator Domenici, you're next in the order.

SEN. DOMENICI: Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

MR. ALTMAN: Yeah, one substantive contact.

SEN. DOMENICI: Please?

MR. ALTMAN: One substantive or meaningful contact.

SEN. DOMENICI: Yeah. Well, I assume -- we're not arguing there that you had -- you're not suggesting you had more than one, are you?

MR. ALTMAN: No. I'm just saying that if you -- you know, you run into someone in the hall -- did you see that thing in the paper this morning? -- I'm not including that.

SEN. DOMENICI: All right. You said you were there to give a heads-up. What I understand the situation to be on average folks, a couple of them in my state that were bordering up

X000855

alongside of a statute of limitations becoming a defense, they were presented with a tolling agreement, and if they didn't sign it, suit was filed so as to toll the statute. Is that a rather fair assessment of the way business is done?

MR. ALTMAN: I think I'd have to know the details of the matter, Senator.

SEN. DOMENICI: Well, I guess what I'm wondering, are we getting the right perspective of why you did this? Did you go there because you wanted them to know that clearly they might be asked to sign a tolling agreement, or to know that the normal process was that the toll -- the statute's going to toll, and there's reasonable grounds to suspect something, they might expect a lawsuit? Or why else would you give them heads-up?

MR. ALTMAN: The difference between this and a matter like the one you referred to is that I had been receiving -- had begun to receive a lot of inquiries, including in writing from Congress, as to what procedures the RTC was going to follow, and I wanted to give them the same sense of those procedures that I was giving members of Congress. And I said to them nothing different than I've said to members of Congress.

SEN. DOMENICI: Well, I understand that, but I guess what I'm getting at is there must have been a reason for telling them that. Congress was just saying the statute's going to run, what are you going to do, so you went over there to tell them that we're going to apply the same thing we do in any other case? And that's the heads-up that you were giving them?

MR. ALTMAN: That's right.

SEN. DOMENICI: Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement or filing a lawsuit? MR. ALTMAN: Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994; that the RTC was going to make every effort to make a decision by that date. It could fundamentally reach only one of two decisions, that there was a basis for a claim or that there wasn't. If there was a basis for a claim then we would either seek a tolling agreement to permit more discovery and more preparation or we would file that claim in court.

SEN. DOMENICI: Well the passage of the statute of limitations extension eliminates that problem as you have already indicated.

I guess, Mr. Chairman, I'm having a little difficulty with explanation because one way of looking at it was that it was not a very meaningful or important meeting -- that he was just doing this so that he would be able to tell Congress he had told them he's going to treat them the same way as others. I don't think a man -- you know, I know you fairly well -- I don't think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they're going to be treated the same way as other people --

X000856

MR. ALTMAN: Senator, I did not know whether they knew of such procedures which as I say I was then communicating to members of Congress and it just seemed to me a little odd to explain to a member of Congress that we're going to follow "XYZ" procedures and not have them ever be made aware of what those were.

SEN. DOMENICI: Well, I want to close on this remarks by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry, you know, it's almost an insult to accuse us of not being concerned about oversight and that some how or another the other side is more interested in how the RTC turned out. Frankly, that's just borders on being a joke. This hearing, we have all your statements, we're going to read them. So we're going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they'll brief us so we're going to know. My last observation would be that it's inconceivable to me Mr. Altman that you would really be concerned that the people involved in the investigation, whomever they are, whether it be the people in Arkansas, whether it be confidants of the President, whomever, that they would not know that the statute of limitations was going to toll and that that presented a situation that you had to advise somebody on.

I just don't think anybody involved in this would not know that.

MR. ALTMAN: Senator, I also -- I would agree with you. I can't say for sure. I don't know what was in their minds. I doubt very much that they did not know about the statute of limitations.

SEN. DOMENICI: Right.

MR. ALTMAN: What I was saying was not that. What I was saying was I did not know if they knew and, frankly, my impression is, as a result of that meeting, they hadn't previously known what procedures the RTC would be following. By that I mean that you have to choose between -- you have to reach a conclusion as to whether there's a claim or there isn't, and then what you have to do if you reach the conclusion that there is.

SEN. DOMENICI: All right. Thank you very much.

SEN. RIEGLE: Thank you.
Senator Faircloth?

SEN. FAIRCLOTH: Thank you, Mr. Chairman. And I will echo Senator Domenici. You have done a superb job of conducting. And I'll be very brief. My questions are to Mr. Hove. Mr. Hove, we keep coming back -- you said the FSLIC issued this report, who has long been out of business, and did the investigation on Mrs. Clinton and her relationship.

MR. HOVE: No, sir, I didn't say FSLIC. I said that the agency that handled the closing of First American was FSLIC, and that occurred before FDIC had any involvement in that.

SEN. FAIRCLOTH: All right. But who did the investigation -- I assume there was one done

X000857

-- to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at?

MR. HOVE: We did not do an investigation, we did not do a review because we don't have all the records. The records are the old FSLIC records that are not in one central repository. All we did was review the records that we had available at the FDIC, and the records that we had at the FDIC only indicated that Mrs. Clinton's involvement, from the records that we could review, was the two hours that she spent filing the amended complaint for her partner, Vince Foster.

SEN. FAIRCLOTH: So, what you're saying really is that you did a very incomplete and surface investigation.

MR. HOVE: We did not -- we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC.

SEN. FAIRCLOTH: Well, I would say that Mr. Whitney (sp) issuing such a clearance for Mrs. Clinton in the name of the FDIC doesn't lend a lot of credibility to an FDIC investigation when he makes his statements and when you didn't really have the records to make an investigation, from what you're telling me.

MR. HOVE: What we were doing was correcting the information that was erroneous in the Chicago Tribune report because the Chicago Tribune said that it was an FDIC case, we said it was not an FDIC case. And we also said that from our records, this was the only involvement that we could have.

SEN. FAIRCLOTH: Well, don't you think it would be a good idea to hunt up the old FSLIC records and see what they might lead you farther? But I have a question, and then I'm going to -- (inaudible word).

The original suit was \$3.3 million. They settled it for 6 cents on the dollar, or \$200,000. What I want to know is how much was Mrs. Clinton paid, or the Rose law firm.

MR. HOVE: I can't tell you. I don't know that.

SEN. FAIRCLOTH: Can you find out?

MR. HOVE: We can try.

SEN. FAIRCLOTH: Well, I would like for you to let me know as quickly as possible how much the Rose law firm was paid, and also their work records to indicate who did the work to earn the money, because -- you say she worked two hours.

MR. HOVE: I didn't say that. I said the only thing that we can ascertain from the records we have was that she worked two hours. And let me remind you, Senator, that these records are disbursed from wherever FSLIC had the records, and we did not take possession of those

X000858

records when FSLIC was closed down.

SEN. FAIRCLOTH: Are those records still available?

MR. HOVE: I don't know.

SEN. FAIRCLOTH: If she settled the lawsuit, the amount of hours she worked -- it is just impossible for me to believe she settled this lawsuit against Lassiter (sp), she signed the amended return, which was the settlement, the amended complaint, which was the settlement against Lassister, at a very favorable rate, then we turn around and find that Lassiter's -- the person with his power of attorney is back in the White House working.

MR. HOVE: Senator, the amended complaint reduced the complaint from 3.3 million to 1.3 million. The suit -- the settlement was some six months later. I don't know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from 3.3 [million] down to 1.3 [million].

SEN. FAIRCLOTH: So we have no idea whether Mrs. Clinton made the final settlement totally.

MR. HOVE: I have no idea from our records and what we've seen --

SEN. FAIRCLOTH: And this two-hour thing -- she could have worked 200 hours.

MR. HOVE: What I have told you is what we have available at the FDIC.

SEN. FAIRCLOTH: But she could have worked 200 hours on it.

MR. HOVE: And all I'm telling you is that the records that we have indicate she worked two hours.

(Confers off microphone.)

Okay, the only records we have was that she billed FSLIC for only those two hours.

SEN. FAIRCLOTH: Billed who?

MR. HOVE: FSLIC. (Pronounces each letter.)

SEN. FAIRCLOTH: How about getting the total records from FSLIC and finding out how much the total bill was and whose time was billed? I'd like to see it. Thank you.

SEN. RIEGLE: Senator D'Amato?

SEN. D'AMATO: You know, Mr. Hove, I have difficulty if you really have trouble figuring out when a claim is initially lodged for \$3 million and then it is reduced and you say, well, you know, the law firm or this partner -- in this case, Mrs. Clinton -- only billed for two hours. But the nature of the work was such as to reduce that lawsuit and the potential

X000859

liability to Mr. Lassiter (sp), who has a definite relationship with the Clintons. I mean, are we really to believe you don't understand that? Now, don't give me this two-hour stuff. I mean, the fact is that that claim was reduced -- the potential of the claim -- from 3 million down to a 1 million some odd, and therefore, a settlement of \$200,000 is much more reasonable in appearance when the initial -- when the suit is only asking for a 1.3 million as opposed to 3 million. Now, doesn't that make some -- I mean, do you see why a senator or anyone else would make an inquiry and say, "Look" -- I mean, what's the situation here? Are you telling us there was no conflict there.

MR. HOVE: But, Senator, you're asking FDIC, and FDIC did not have any involvement in that suit at that time.

SEN. D'AMATO: I'm not suggesting that. What I'm suggesting to you is that a period of time it came under you for review.

And if you look at this -- don't keep telling us that FDIC didn't have anything at that time. We're not suggesting that you did anything wrong. We're suggesting you take a look at the facts, take a look at the record, and you can be a school boy, you can't come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person that they brought a suit to. And as a matter of fact, whether it was two hours or one hour, the determination was made to reduce the claim that might bring the potential liability from \$3 million down to \$1 million and eventually settle for \$200,000. Now, we don't know who was responsible for the settlement. But the fact of the matter is that the partner who reduced and amended that complaint was Mrs. Clinton. Now that's obvious. I'm not going to spend my time going back and forth with you. I'm going to tell you something else, though. When we talked about the potential for conflict before, as it related to the Madison Guaranty and Mr. Hubbell, I want to refer you to a letter of June 8th, 1989. Now, Mr. Hove, you stated that since the Rose law firm -- when I first brought this up to you -- was suing Frost, it wasn't relevant that Web Hubbell's brother-in-law and father-in-law were suing Madison. Now, if you take a look at that letter -- and I'm going to suggest to you that you're wrong, and that's why you'd better have the IG look at this. June 8th, 1989, and it is written to April Breslaw (sp), Attorney, Federal Deposit Insurance Corporation. I'm reading part of it:

"Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately \$447,000." Now, I'm going to skip the next sentence, go down to --

"Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought, whether in state or federal court. At a minimum" -- it goes on to say -- "the state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Miss Styrahorn (ph) has informed me that the informal -- the information contained in the audit files could be damaging to our case, especially if a new trial is granted."

It goes on and it concludes: "I offer this information because there appears to be a conflict in

X000860

representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter." Now, look, I'm not suggesting that at that time that you know of it. Here it is. And that's why, if you don't refer something to the IG to clarify whether or not there was a conflict, you can't be doing the right thing. And for you to maintain, "Well, we weren't there at the time; it was at FSLIC" or "Maybe the rules were a little vague." I mean, for god sakes, you had lowly auditors saying, "Wake up, fellas." You had an auditor in another letter saying it's impossible to think that he's not going to tell his in-laws what's going on. So that's the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

Mr. Chairman, notwithstanding first of all I'm going to ask that we be permitted to submit some documents for the record that have been returned to --

SEN. RIEGLE: Without objection, so ordered.

SEN. D'AMATO: -- so we can keep an orderly proceeding.

Secondly, I want to say before I conclude that you could not have been fairer in making available this opportunity and according the members the opportunity to make their presentations and to ask their questions under very difficult circumstances. So I want you to know that. And I think that I speak for all the Republicans on the committee in relationship to the manner in which you have conducted this proceeding. And it's not easy for you, and I just want to commend you for your impartiality.

And let me conclude again. I think what we're interested in, in this, is seeing -- and Senator Domenici said -- that the process moves forward without there being interference, without there being a question as to what documents have been made available to the appropriate people, what has been taken. Some of these things have no -- I see Mr. Altman. He's placed in a very, very difficult position. I've said that publicly as well. It is a very, very difficult situation. And it certainly -- it leads to us raising the kinds of questions that we have. But I tell you this senator wants to see that what was supposed to be done was done, that what should be done at the present level is carried out in a manner in which everyone can say that the right thing was done. And then let the chips fall where they may.

So, Mr. Chairman, again, thank you for providing us an opportunity to put forth our concerns, and hopefully, this will move us a step closer to resolving this matter. Thank you. SEN.

RIEGLE: Thank you very much. We'll give you some questions for the record, and we'd ask you to respond to them. The committee stands in recess.

END

X000861

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-8060

**** FACSIMILE ****

HARRY S. DOWDALL, TEXAS, CHAIRMAN
 STEPHEN L. DEAN, NORTH CAROLINA
 JOHN J. LAFALCE, NEW YORK
 BRUCE A. VENTRONE, MINNESOTA
 CHARLES E. SCHUMER, NEW YORK
 SAMUEL M. HANCOCK, MASSACHUSETTS
 PAUL S. CARLSON, PENNSYLVANIA
 JOSEPH P. LEBRON, MASSACHUSETTS
 FLOYD M. PLATT, NEW YORK
 THOMAS R. WATKINS, MARYLAND
 MARION WALTER, CALIFORNIA
 LARRY LARSEN, IOWA
 BILL GUTER, UTAH
 JOE BARTON, FLORIDA
 HERBERT C. KLON, NEW JERSEY
 CAROLYN E. MALONEY, NEW YORK
 PETER BOUTOUL, FLORIDA
 LINDA M. BOUTOUL, ALABAMA
 BUDDY L. RUSH, KENTUCKY
 LUCILLE ROYAL, CALIFORNIA
 THOMAS M. BARNETT, WISCONSIN
 ELIZABETH FURBER, OHIO
 RYAN M. WELLS, NEW YORK
 ALBERT B. WYNN, MISSISSIPPI
 CLAY WELLS, LOUISIANA
 CAROLINE WATTS, NORTH CAROLINA
 MARION BUCKLEY, NEW YORK
 CALVIN B. BOYLE, CALIFORNIA
 DON BLANK, PENNSYLVANIA
 DON PROSSER, OHIO

JAMES A. LEACH, IOWA
 BILL BRIDGEMAN, FLORIDA
 MARION BRIDGEMAN, NEW JERSEY
 DONALD BRIDGEMAN, IOWA
 THOMAS M. BARNETT, WISCONSIN
 TONY ROTH, WISCONSIN
 ALBERT B. WYNN, MISSISSIPPI
 RICHARD H. BAKER, LOUISIANA
 JIM BAKER, IOWA
 CHAS. THOMAS, IOWA
 SAM. JOHNSON, TEXAS
 BENJAMIN FRYE, OHIO
 JOHN LUDER, GEORGIA
 JOE SPILLER, IOWA
 RICK LADD, NEW YORK
 RYAN M. WELLS, NEW YORK
 SPENCER BRIDGEMAN, ALABAMA
 MARION BUCKLEY, NEW YORK
 MICHAEL CASTLE, DELAWARE
 PETER BOUTOUL, FLORIDA
 PETER BOUTOUL, FLORIDA
 JIM BAKER, IOWA

FORM-10 (REV. 10-1987)

DATE: March 1, 1994
TO: Mr. Bernard Husebaum
FROM: Congressman James A. Leach

Number of Pages to Follow: 44

Enclosures and the original letter are being sent via mail.

X000862

-FRY S. GONZALEZ, TEXAS, CHAIRMAN

STEPHEN L. HALL, NORTH CAROLINA
JOHN A. LAFALCE, NEW YORK
FRANK P. WATKINS, MICHIGAN
CHARLES E. SCHLESER, NEW YORK
BARNEY FRANK, MASSACHUSETTS
PAUL E. SARANOSKI, PENNSYLVANIA
JOSEPH P. BERNARDI, MASSACHUSETTS
FLOYD H. PLATT, NEW YORK
CONRAD BARNES, MARYLAND
MARIANNE WATSON, CALIFORNIA
LARRY LAROCHE, IDAHO
BILL OROCK, UTAH
JIM BANGS, FLORIDA
GARRETT E. BLAIR, NEW JERSEY
PATRICK E. WALSH, NEW YORK
PETER BRUTSCH, FLORIDA
LISE V. GUTENBERG, FLORIDA
TERRY L. RUSH, ILLINOIS
LORNAE REITSCHLAGER, CALIFORNIA
THOMAS H. BARNETT, MINNESOTA
ELIZABETH RUSSELL, MINNESOTA
RYAN M. WILSON, NEW YORK
ALBERT S. BYRNE, MARYLAND
CLAY FRANK, LOUISIANA
HELMUT WATZ, NORTH CAROLINA
MARLENE BERNARDI, NEW YORK
CALVIN M. DOOLEY, CALIFORNIA
RON ELSON, PENNSYLVANIA
ERIC FINKELSTEIN, D.C.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
ONE HUNDRED THIRD CONGRESS
7199 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20518-6080

March 1, 1994

JAMES A. LEACH, IOWA
GAIL MCCOY, ILLINOIS
MARIE BOULIN, NEW JERSEY
DOUG BARNETT, MISSISSIPPI
THOMAS RICE, PENNSYLVANIA
TOMMY ROTH, MISSISSIPPI
ALFRED A. WAGNER, CALIFORNIA
STUART E. BAKER, LOUISIANA
JIM BUSTLE, IOWA
CHAS. THOMAS, ILLINOIS
SAM JOHNSON, TEXAS
ROBERT POTT, IOWA
JOHN LINCOLN, GEORGIA
JOE CARROLL, IOWA
NICK LADD, NEW YORK
BOB SCALISE, MINNESOTA
SPENCER BROWN, ALABAMA
BRIAN HOPKINS, CALIFORNIA
RONALD, SANTA BARBARA
DOTTIE FEAR, NEW YORK
EDWARD BARNES, VERMONT
DOD 235-1347

Mr. Bernard Nussbaum
Counsel to the President
The White House
Washington, D.C. 20500

Mr. Stephen Potts
Director
Office of Government Ethics
1201 New York Avenue, N.W.
Suite 500
Washington, D.C. 20005-3917

Ms. Jean Hanson
General Counsel
Room 3000
Department of the Treasury
Washington, D.C. 20220

Mr. Art Kuminaki
Chief Ethics Officer
Resolution Trust Corporation
801- 17th Street, N.W.
Washington, D.C. 20434

Dear Messrs. and Madam:

On February 3, 1994, I wrote to the Interim CEO of the Resolution Trust Corporation (RTC), Mr. Roger Altman, asking that he seek appropriate counsel as to whether he should recuse himself from matters regarding Madison Guaranty Savings and Loan. As I noted in my February 3 letter to Mr. Altman: "...it would appear ethically questionable for a political appointee of the Department of Treasury to make decisions for an independent federal agency when the President may be implicated in enforcement and civil actions."

On February 23 I received a lengthy response to my letter which ended with the following sentence: "I trust this letter fully addresses your concerns" (see attached letters). Regrettably, the letter did not fully address the concerns expressed in my letter of February 3. Moreover, it would appear that the concerns raised in my letter were confirmed when Mr. Altman testified last week before the Senate Banking Committee that he had entered discussions with

X000863

Page 2
March 1, 1994

the White House on matters affecting the President's potential personal liabilities.

While it is dubiously credible to think Mr. Altman would have gone to the White House to discuss only the statute of limitations, in that a mere memo would have sufficed, it bears noting again the irony that it was Mr. Altman who on May 4, 1993, strongly recommended by letter to the Chairman of the House Banking Committee that the statute of limitations for civil lawsuits against S&L wrongdoers not be extended.

Mr. Altman's meeting with White House staff concerning the RTC's actions in the Madison case is an ethical umbrage. Even though Mr. Altman has now decided it proper to recuse himself from the Madison case, the issue at hand is whether his conduct violated federal ethics guidelines or strictures, as promulgated by the RTC. These guidelines are listed under 12 CFR § 1605.7 and include the following:

"No employee shall engage in any action, which might result in, or create the appearance of ...

- (b) giving preferential treatment to any person;...
- (d) losing complete independence or impartiality;
- (e) making an RTC decision outside official channels; or,
- (f) adversely affecting the public's confidence in the integrity of the RTC."

Also, 12 CFR § 1605.10 states that an RTC "employee may not, directly, or indirectly, use or allow the use of information which is obtained as a result of his or her RTC employment but which is not available to the general public in order to engage in any financial transaction or to further a private interest."

In addition, another issue appears to be an abuse of the spirit of 5 U.S.C 3348. In a technical sense, this statute allows the President to name a temporary agency head to fill a vacancy until a nominee is confirmed by the Senate. In the event a nominee is rejected by the Senate or his/her name is withdrawn, 5 U.S.C. 3348 provides that the vacancy may be filled for not more than 120-days by an individual designated by the President.

In the case of Mr. Altman's appointment as interim CEO of the RTC, we have a situation where a political appointee of the Treasury Department has served as the head of an independent agency for approximately 13 months. To some, this circumstance leaves the

X000864

Page 3
March 1, 1994

impression that Mr. Altman's term of office might have been intended to coincide with the running of the statute of limitations for civil lawsuits which could affect the White House.

Now that the statute of limitations has been extended, a skeptic might wonder if further legal machinations will occur as a means of maintaining Mr. Altman's tenure as interim CEO of the RTC. After all, no nominee to head the RTC has been formally presented to the Senate since Mr. Tate withdrew his name from consideration on November 30, when he complained of gross mismanagement at the RTC.

It is my judgement that the RTC has had its independence compromised and that it is no longer sufficient for Mr. Altman to recuse himself from the Madison case. It is all too apparent that his shadow looms large at the agency and that his immediate resignation from all responsibilities at the RTC would appear to be the only ethical option at this time.

In addition, just as one party should not have requested the meeting, the other party should not have accepted it. In this regard, I hereby request a review of whether White House officials, Bernard Nussbaum, Margaret Williams, and Harold Ickes, violated any ethical guidelines. Here I would call your attention to the following White House guidelines:

3 CFR § 100.735-4 General standards of conduct.

"(c) In all circumstances employees shall conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding Government efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Government decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity of the Government."

3 CFR § 100.735-8 Conflicts of interest.

X000865

Page 4
March 1, 1994

"(a) A conflict of interest may exist whenever an employee has a substantial or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interest. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to his private advantage."

3 CFR § 100.735-21 General conduct prejudicial to the Government.

"An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government."

With regard to the second of the above citations, it would appear self-apparent that "personal or private interest" would apply to issues of individual job security or promotion. In addition, with regard to the third, the adjective "dishonest" would presumably apply to the issuance of statements of fact that prove untrue. Here, I bring to your attention, Mr. Nussbaum's February 10, 1994 letter to Reps. Lightfoot, Wolf, and Istook. I would also ask that the possibility be probed that the meeting might have had the effect of being "prejudicial" to the government's case in attempts to recover taxpayer losses related to the failure of Madison Guaranty.

I would specifically request that the Office of Government Ethics and the Chief Ethics officer of the White House, which I understand to be Mr. Nussbaum or his designee, formally review and provide me with a response as to whether the meeting between the three White House officials and Mr. Altman violated any guidelines of government ethics, regulations, or law. In particular, there is an implicit appearance that public officials dealt with the private matters of the President. In this regard, I would hereby request a list of any individuals who participated or attended at any point in the discussions and from each any notes or recordings of the meeting or meetings at the White House or elsewhere on this matter.

Please provide a full response to the issues raised in this letter regarding the White House as well as Mr. Altman by Monday, March 21, 1994. Thank you for your time and consideration of this matter.

Sincerely,


James A. Leach
Ranking Member

cc: Mr. Roger Altman
INTERIM CEO
Resolution Trust Corporation

○